

**COMANCHE NATION  
DOMESTIC VIOLENCE AND PREVENTION OF  
DOMESTIC ABUSE ACT  
TITLE 7**

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**CHAPTER ONE  
DOMESTIC VIOLENCE &  
PREVENTION OF DOMESTIC ABUSE ACT**

**Section 7.101      Title of Code**

This Title shall be known as the Domestic Violence and Prevention of Domestic Abuse Act of the Comanche Nation.

**Section 7.102      Objective**

The Domestic Violence and Prevention of Domestic Abuse Act shall be construed to promote the following:

- (A) That violence against family members is not in keeping with Comanche Nation traditional and/or contemporary values. It is the expectation that the criminal justice system shall respond to victims of domestic violence with fairness, compassion, and in a prompt and effective manner. The objective of this Title is to provide victims of domestic violence, stalking, and harassment with safety and protection. Ultimately, this Title shall hold batterers accountable.
- (B) It is also the objective of this Title to utilize the criminal justice system to set standards of behavior within the family that are consistent with traditional Comanche Nation Tribal values, and, as such, the criminal justice system will be utilized to impose legal consequences upon offenders for behaviors that violate traditional Comanche Nation Values, which consider familial relationships as sacred. These legal consequences are designed to protect the victims of domestic violence, while also providing offenders the opportunity to make positive changes in their behavior.
- (C) The prevention of future violence in all families through crime prevention and public education programs that promote cultural teachings and traditional Comanche Nation values so as to nurture non-violence within Native families and respect for Native women, in particular.
- (D) This Act shall repeal and revoke Title 2 of the Comanche Nation Tribal Code, Part X Crimes of Domestic or Family Abuse, Title 2 of the Comanche Nation Tribal Code, Section 1.01(J), and (K) Definitions of “Dating Violence” and Domestic Violence,” and Title 2 of the Comanche Nation Tribal Code, Section 5.01 Rights of Crime Victims Involving Domestic Abuse, Sexual Assault, Stalking and Dating Violence.

**Section 7.103      Authority of the Comanche Nation to Regulate Domestic Violence Within its Jurisdictional Boundaries**

The Comanche Nation shall exercise its inherent authority to protect its political integrity and provide for the welfare of its members, and others who choose to live or conduct business within its territories, by fulfilling the following purposes:

- (A) Domestic violence within Comanche Nation boundaries seriously impacts the ability of the Comanche Nation to provide for the health and well-being of its members and threatens the political integrity of the Nation.
- (B) Domestic violence is also being perpetrated by persons who are not members of the Tribe. These activities of non-member Indians and non-Indians, who have entered into consensual relations with Tribal members, will be regulated under this Title just as the activities of Tribal members in accordance with federal law.
- (C) The Comanche Nation has the inherent right to exclude members, non-member Indians, and non-Indians as well as the inherent authority to protect its political integrity and provide for the welfare of its members and others who choose to live or conduct business within its territories.
- (D) The Comanche Nation Tribal Court is vested with jurisdiction to enforce all provisions of this Title against any person who has committed an act of Domestic Violence against a victim within Comanche Nation Indian Country, provided if the perpetrator is a non-Indian, he or she must have sufficient ties to the Comanche Nation.

A non- Indian has sufficient ties to the Comanche Nation for purposes of jurisdiction if they:

- (1) Reside within Comanche Nation Indian country;
- (2) Are employed within Comanche Nation Indian country; or
- (3) Are a spouse, intimate partner, or dating partner of either:
  - (a) A member of the Comanche Nation, or
  - (b) A non-member Indian who resides in the Comanche Nation Indian country.

## **Section 7.104      Definitions**

As used in this Title:

- (C) “Domestic Violence” means the occurrence of one or more of the following acts committed by a person against a family or household member, and/or a dating partner:
  - (1) Attempting to cause or causing physical harm, or
  - (2) Placing such person in fear and/or reasonable apprehension of physical harm, or
  - (3) Causing such person to engage in involuntary sexual activity by force, threat of force, or duress.
  
- (B) “Stalking” means the willful, malicious, and repeated following of a person, by an adult, emancipated minor or minor thirteen years of age or older, with the intent of placing the person in reasonable fear of death or great bodily injury. Stalking also means using intimidating acts against a person or personal property, using substantial intimidation or placing a person at a substantial safety risk, whether in person or by any other electronic means; or the use of a third person to carry out acts that if done by the person using such person would result in stalking.
  
- (C) “Harassment” means unwanted contact and or any of the following;
  - (1) A knowing and willful course or pattern of conduct by a family or household member directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose.
  - (2) The “course of conduct” must be such as would cause a reasonable person to suffer substantial emotional distress or embarrassment. “Harassment” shall include, but not be limited to telephone calls which are obscene or are threatening in nature.
  
- (D) “Family or Household members” means:
  - (1) spouses,

- (2) ex-spouses,
  - (3) present spouses of ex-spouses,
  - (4) parents, including grandparents, stepparents, adoptive parents and foster parents,
  - (5) children, including grandchildren, stepchildren, adopted children and foster children,
  - (6) persons otherwise related by blood or marriage,
  - (7) persons living in the same household, as intimate partners, or who formerly lived in the same household, as intimate partners,
  - (8) persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time.
  - (9) And any other person listed, or defined, as victims under the authority of the Violence Against Women Act (VAWA), 25 USC §1304(a).
- (E) “Dating Partner” means a person who is or has been in a social, dating relationship of a romantic or intimate nature with the abuser. The existence of such a relationship is based on a consideration of:
- (1) The length of the relationship; and
  - (2) The type of relationship; and
  - (3) The frequency of interaction between the persons involved in the relationship.
- (F) “Protective Order” means any valid order of protection issued by a court of competent jurisdiction including, but not limited to, emergency, ex parte, temporary, or permanent protective orders, prohibiting Domestic Violence, Stalking, and/or Harassment.
- (G) “Foreign Protective Order” means any valid order of protection issued by a court of another state or a Tribal court.
- (H) “Mutual Protective Order” means a final protective order or orders issued to both a plaintiff who had filed a Petition for a Protective Order and a defendant included as the defendant in the plaintiff’s Petition restraining the parties from committing domestic violence, stalking, harassment or sexual assault against one another.

**Section 7.105      Rights of Victim of Domestic Violence**

A victim of domestic violence or dating violence is entitled to all rights granted to victims of crime, including but not limited to the right to:

- (A) Be informed of all hearing dates, continuances, probation proceedings, and any release or escape of the alleged or convicted perpetrator;
- (B) Provide the court with a victim-impact statement, victim-opinion statement, and an assessment of the risk of future harm;
- (C) Be present at sentencing and address the court;
- (D) Advise the court of conditions of probation and parole required to ensure the safety of the victim and other family or household members;
- (E) Restitution for losses sustained as a direct result of any criminal conduct.
- (F) Or any relief the Court deems necessary.

The victim’s advocate shall notify any victim of domestic violence of his/her rights set forth in this section, in writing. For notice to be meaningful, it should be actual, timely and written in a language which the victim understands.

**Section 7.106      Crime Involving Domestic Violence Defined**

The purpose of this Title is to clarify that domestic violence is a separate and distinct category of crime that includes elements of the following underlying offenses and to acknowledge that when the following crimes are committed against a family or household member, as defined in Section 7.104(D), a finding of such shall trigger the application of this Title. The crime of “Domestic Violence” or “Dating Violence” occurs when a person commits one or more of the following offenses against a family or household member or former family or household member or dating partner:

1. Arson
2. Assault or Battery Offenses
3. Burglary, Breaking and Entering
4. Destruction of Property, Criminal Mischief
5. Homicide

6. Kidnapping, Abduction
7. Sex Offenses
8. Theft
9. Weapons Law Violations, 18 USC § 922(g)(9)
10. Disorderly Conduct
11. Non-violent family offenses
12. Stalking
13. Trespass of Real Property
14. Public Intoxication
15. Harassment in a civil or criminal context: Title 2, Part XV, Section 4.151

The use and/or presence of drugs and alcohol shall not be used to mitigate the seriousness of the domestic violence offense.

**Section 7.107      Mandatory Arrest for Crimes Involving Domestic Violence**  
**Determination of Predominant Aggressor, Required Report**

- (A) A law enforcement officer shall arrest any person, with or without a warrant, whom he has probable cause to believe committed any crime involving domestic violence as defined in this Title. The officer shall promptly, within one business day, file a report with the prosecutor's office. Thereafter, the Comanche Nation Prosecutor has up to seventy-two (72) hours to hold the defendant without bond and file a Criminal Complaint alleging the crime. If there are no charges filed within seventy-two (72) hours of arrest, the offender shall be released.
- (B) If a law enforcement officer receives a complaint of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine who was the predominant aggressor. If the officer determines that one person was the predominant aggressor, the officer need not arrest the opposing person alleged to have committed domestic violence. In determining whether a person is the predominant aggressor, the officer shall cumulatively consider the following factors:
  - (1) The history of domestic violence, both documented prior complaints and

convictions and the law enforcement officer's own prior knowledge of the family;

- (2) The relative severity of the injuries inflicted on each person evidenced by who in the relationship poses the most danger to the other person;
  - (3) The likelihood of future injury to each person;
  - (4) Whether one of the persons acted in self-defense or defense of another;
  - (5) The degree to which one of the persons has acted with more deliberate intent to control, isolate, intimidate, emotionally demean, cause injury or pain or fear of harm to the person or third person.
- (E) The law enforcement officer shall consider the dynamics of domestic violence and the definition of predominant aggressor in determining which party to arrest.

### **Section 7.108      Law Enforcement Officers Who Batter; Procedure**

Law enforcement officers who are suspected of committing the crime of domestic violence shall be subject to all provisions of this code.

Upon receiving a report or notification that a law enforcement officer is a possible perpetrator of domestic violence:

- (A) The responding officer shall immediately notify the on-duty supervisor or designate.
- (B) The supervisor shall respond to the call and will notify the chief or designate.
- (C) Line officers will secure the scene and ensure the safety of all parties.
- (D) Under no circumstances will line officers be responsible for or be assigned to investigate calls regarding other officers of equal rank or superior officers. Someone of higher rank than the alleged perpetrator shall be involved in responding.
- (E) The domestic violence investigator or designate shall be notified of the call.
- (F) Once the preceding is complete the line officer shall await the response of a superior.

### **Section 7.109      Prosecution Responsibility**

The Comanche Nation Attorney General or Prosecutor designee shall be responsible for initiating, presenting, and prosecuting any domestic violence criminal case.

**Section 7.110      Authority of Law Enforcement Officers to Seize Weapons**

Incident to an arrest, or in the course of securing a crime scene involving domestic violence a law enforcement officer:

- (C) Shall seize all weapons that are alleged to have been involved or threatened to be used in the commission of a crime or any weapon in the immediate vicinity of the alleged commission of the offense. The immediate vicinity is not limited to the “wingspan” of the perpetrator and can include additional rooms of the home if weapons are reasonably suspected to be present.
  
- (C) Shall seize a weapon that is in the plain view or which is located during a search authorized by a person entitled to consent to the search. The seizure of weapons is without regard to ownership of the weapons; weapons owned by a third party are subject to seizure when officers conclude that the weapon must be seized to protect law enforcement, victims of domestic violence or others.
  
- (C) These weapons shall be receipted and inventoried and returned to the proper owner of the weapon at the closing of the case or by Judge’s orders.

**Section 7.111      Immunity**

Any law enforcement officer shall have immunity from any liability, civil or criminal, in making arrests or exercising any authority granted under this Code, if the law enforcement officer acts in good faith and has probable cause based on the totality of the circumstances upon the best information so as to provide protection for victims of domestic violence. Law enforcement officers shall have the same immunity with respect to participation in any court proceedings resulting from arrests made for domestic violence or any crimes involving domestic violence.

**Section 7.112      Conditions for Pre-Trial Release**

- (A) No person arrested for a crime of domestic violence or violation of protective order shall be released until they make an initial appearance before the judge or magistrate. The initial appearance shall be held within forty-eight (48) hours of arrest, excluding weekends or holidays in which the courthouse is closed. Bond may be set at the initial appearance.

- (B) No person arrested for the crime of domestic violence or violation of protective order shall be allowed a temporary release before initial appearance except for good cause as determined by the judge, and provided such release does not represent an imminent danger to the perpetrator's spouse/partner, immediate family or others.
- (C) The use or abuse of alcohol and/or other chemicals by the alleged perpetrator shall be considered, not only in relationship to the alleged offense but as alcohol and/or other chemicals relate to the alleged perpetrator's overall lifestyle, in the likelihood that alcohol and/ or other chemicals greatly increase the likeliness or unlikeliness of a person to appear in court, potential for lethality, or enhances the possibility of further threats or injury to the victim.
- (D) Before releasing a person arrested for a charge with a crime involving domestic violence, or a violation of protective order, the court shall make findings on the record, and may impose conditions to the release or bail on the person to protect the alleged victim of domestic violence and to ensure the appearance of the person at subsequent court proceedings. These conditions may include, but are not limited to the following:
  - (1) An order enjoining the person from threatening to commit or committing acts of domestic violence against the alleged victim or other family or household members.
  - (2) An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly through family, relations by marriage, friends or co-workers.
  - (3) An order directing the person to stay away from the home of the alleged victim and/or child(ren) and to stay away from any location where the victim is likely to be.
  - (4) An order prohibiting the person from using or possession of a firearm or other weapons specified by the Court. The Court shall order weapons turned into the Comanche Nation Police Department as a requirement of bond.
  - (5) An order prohibiting the person from possession or consumption of alcohol or controlled substances; and
  - (6) Any other order required to protect the safety of the alleged victim and to assure the appearance of the person in court.

- (E) If conditions of release are imposed, the court shall:
  - (1) Issue a written order for conditional release;
  - (2) Provide law enforcement and/or public safety with any available information concerning the location of the perpetrator in a manner that protects the safety of the victim;
  - (3) Inform the person being released that he is to be monitored by a probation officer for compliance with his conditions on release, and that a violation of these conditions may cause his conditional release to be revoked.
  
- (G) The clerk of courts shall provide a copy of the conditions to the arrested person upon his or her release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the person has been provided other notice of the conditions.

**Section 7.113      Mandatory Arrest for Violations of Condition of Release**

If a law enforcement officer or domestic violence officer has probable cause to believe that a person on domestic violence probation, parole, or other supervised released has violated a condition of release imposed in accordance with Section 14-1-112 herein, the officer shall, without a warrant, arrest the alleged perpetrator whether the violation was committed in the presence of the officer or not.

**Section 7.114      Role of the Court; Sentencing, Probation Conditions**

In responding to the crime of domestic violence the court shall consider;

- (A) The range of punishment for the crime of domestic violence.
  - (1) For first time offenders, the defendant can be incarcerated for a period of time not to exceed one (1) year. The fine for such an offense is to be no more than five thousand dollars (\$5,000.00) and/or banishment. The punishment of Banishment from the Tribe will be in accord with Tribal law.
  - (2) For second and subsequent offenses, the defendant can be incarcerated for a period not to exceed three (3) years. The fine for such an offense is to be no more than fifteen thousand dollars (\$15,000.00) and/or banishment.
  - (3) The punishment of Banishment from the Tribe will be in accordance with Comanche Nation law.

- (B) Noncompliance: In the event that the offender does not comply with the conditions of probation, the court may, in addition to revoking his suspended sentence, and in addition to civil contempt, recommend criminal contempt be filed which may require any sentence for contempt to be served consecutively to the imposition of the offenders original sentence for the underlying offense.

**Section 7.115      Probation Violations, Process for Revocation, Consequences**

- (A) The court may recognize the signed affidavit of the probation officer and accompanying documentation outlining any violation of probation conditions as probable cause to issue a warrant for the perpetrator's arrest.
- (B) Upon arrest for a violation of probation, the person on probation may be held without bond until their initial appearance.
  - (1) If a person is arrested for a second criminal offense while on probation for a Domestic Violence offense, the prosecutor must call a Comanche Nation Judge to determine bond amount, if any.
- (C) The police department shall report to the Attorney General or the prosecutor of any person arrested for any crime who is also on probation for a crime of domestic violence, when they have such knowledge.

**Section 7.116      Civil Sanctions Sought in the Name of the Comanche Nation**

- (A) Removal and Exclusion.
  - (2) The prosecutor for the Tribe may file a civil complaint against the perpetrator for removal and exclusion from the businesses and land of the Comanche Nation. It is necessary to understand that exclusion is a proper remedy to ensure the safety and well being of victims of domestic violence.
- (B) Civil Forfeitures
  - (1) Any weapon, vehicle, or item of personal property used by a native or non-native in the furtherance of an attempt or perpetration of a crime of domestic violence is subject to forfeiture by the Tribal authorities. The requirement for forfeiture is a filing of a civil petition and proof by a

preponderance of the evidence that the particular item sought to be forfeited was used in an attempt to commit or in the perpetration of a crime of domestic violence.

- (2) Any third-party lawful owner of such property may petition the court for return of such property. Upon a finding that the third party participated in or acknowledged that their property would be used for violation of the Comanche Nation's Domestic Violence and Prevention code, the court has the discretionary authority to return the property, or order it to be disposed of, used, or sold for the benefit of the Tribe.
- (C) Contempt of Court: All civil remedies can be enforced by Contempt of Court. This fine is in addition to any other fines imposed upon the perpetrator of domestic violence.
- (D) Appellate Review: Appeals under this Section shall be pursuant to the Rules of Civil Procedure.

**Section 7.117      Spousal Privileges Inapplicable to Criminal Proceedings Involving Domestic Violence**

The following evidentiary privileges do not apply in criminal proceedings in which a spouse or other family member is the victim of an alleged crime involving domestic violence perpetrated by the other spouse:

- (A) The privilege of confidential communications between spouses.
- (B) The testimonial privilege of spouses.

**Section 7.118      Advocate-Victim Privilege Applicable in Cases Involving Domestic or Family Violence**

- (A) Except as otherwise provided in Subsection (B), confidential oral communications between a victim of domestic violence or family violence and domestic violence/family violence advocate, and written records and reports concerning the victims are privileged. The privilege can be claimed by:
  - (1) The victim; or
  - (2) The person who was the advocate at the time of the confidential

communication, except that the advocate may not claim the privilege if the victim is deceased or if the privilege has been waived by the victim.

- (B) The privilege does not relieve a person from a duty imposed under the Comanche Nation Code or federal laws requiring the reporting of violence against children.

### **Section 7.119      Self-Defense, Judicial Safeguards for Victims**

In the event of a dual arrest for domestic violence, the presiding judge will take judicial notice of all factors in the case, including evidence determining who is the predominant aggressor, before entering a guilty plea by an alleged perpetrator. Indications of self-defense shall be sufficient reason for a judge to order a hearing to show cause before proceeding with a domestic violence charge against the alleged perpetrator. Such procedure and hearing shall take place to determine the possibility of self-defense, with or without concurrence of the prosecutor.

During such hearing to show cause, the presiding judge will entertain any pertinent information and/or testimony of domestic violence advocates pertaining to domestic violence or any other factors relating to the self-defense characteristics displayed in domestic violence cases.

### **Section 7.120      Protective Order Petition, Form, Filing/Fees, Preparation**

- (A) Any victim of domestic violence, a victim of stalking, a victim of harassment, a victim of sexual assault, or a victim of dating violence may file a Petition for protective order with the Comanche Nation District Court.
  - (1) If the person believes that they are a victim defined by this Title, the person seeking relief must file a report against the defendant with the proper law enforcement agency before filing a petition for a protective order with the court, or provide good cause why the report was not filed.
  - (2) The filing of a petition for protective order shall not require the court to have jurisdiction or venue of the criminal offense.
- (B) The petition forms shall be provided by the clerk of the court. The court clerk shall develop a standard form for the Petition. If the plaintiff has retained counsel for the filing of the protective order, the attorney may substitute his Petition for the standard Petition prepared by the Clerk of the court.
- (C) Except as otherwise provided by this section, no filing fee, service of process fee, attorney fees or any other fee or costs shall be charged the plaintiff or victim at any time for filing a petition for a protective order whether the protective order is granted or not granted. The court may assess court costs, service of process fees, attorneys fees, other fees and filing fees against the defendant at the hearing on

the petition, if a protective order is granted against the defendant; provided the court shall have authority to waive the costs and fees if the court finds that the party does not have the ability to pay costs and fees.

If the court makes a specific finding that a petition for protective order has been filed frivolously and no victim exists, the court may assess attorney fees and court costs against the plaintiff.

The person seeking relief shall prepare the petition, or at the request of the plaintiff, the court clerk, or the victim advocate, shall prepare or assist the plaintiff in preparing the petition.

**Section 7.121      Hearing, Service of Process, Emergency Ex Parte Orders, Protective Orders, Period of Relief, Title to Real Property**

- (A) A copy of the petition, notice of hearing and copy of the ex-parte order issued by the court shall be served upon the defendant in the same manner as a bench warrant, provided any identifying victim contact or location information is redacted.
- (B) Emergency ex parte orders shall be given priority for service and can be served twenty-four (24) hours a day when the location of the defendant is known. When the Comanche Nation's Police Department cannot perform service, service may be acquired by another law enforcement officer, private investigator, private process server, or any other means deemed appropriate.
- (C) The return of service shall be filed in the court and submitted to the court file prior to the hearing date.
- (D) Within twenty (20) days of the filing of the petition for protective order, the court shall schedule a full hearing on the petition. If the court finds sufficient grounds within the scope of this Title to hold a hearing, such hearing shall be scheduled regardless of whether an emergency ex parte order has previously been issued, requested or denied.
- (E) The court may, in its discretion, schedule a full hearing on the petition for protective order within seventy-two (72) hours when the court issues an emergency ex parte order suspending child visitation rights due to physical violence or threats of abuse.
- (F) If service has not been made on the defendant at the time of the hearing, the court may continue the hearing and the validity of the ex parte order.
- (G) A petition for protective order shall automatically renew every twenty (20) days until the defendant is served. A petition for protective order shall not expire and

must be dismissed by court order.

- (H) Failure to serve the defendant shall not be grounds for dismissal of a petition or an ex parte order, upon the finding that the defendant is eluding service and good faith attempts have been made to serve the defendant, unless the plaintiff or victim requests dismissal.
- (I) At the hearing, the court may impose any terms and conditions in the protective order that the court reasonably believes are necessary to bring about the cessation of domestic abuse against the victim or stalking or harassment of the victim or the victim's immediate family and may order the defendant to obtain a domestic violence inventory or to seek domestic violence counseling as well as drug or alcohol treatment.
- (J) Final protective orders authorized by this section shall be on a standard form developed by the court.
- (K) After notice and hearing, protective orders authorized by this section may require the plaintiff and defendant or both to undergo treatment or participate in court-approved counseling to bring about the cessation of domestic violence.
- (L) Either party or both may be required to pay the costs of such treatment or counseling services. The court shall not be responsible for such costs.
- (M) Any protective order issued shall be valid for a period not to exceed three (3) years unless extended or modified by the protected party, or vacated or rescinded by the Court.
- (N) The court shall notify the parties at the time of the issuance of the protective order of the duration of the protective order.
- (O) Upon the filing of a motion by either party to modify, extend, or vacate a protective order, a hearing shall be scheduled and notice given to the parties. At the hearing, the issuing court may take such action as is necessary under the circumstances.
- (P) Upon extension of a protective order the protective order shall be given a new number reflective of the issuing year. An extended protective order shall be valid for three years.
- (Q) No person shall knowingly and willingly seek a protective order against a spouse or ex-spouse for purposes of harassment, undue advantage, intimidation or limitation of child visitation rights in any divorce proceedings or separation action without just cause demonstrated, or the person may be subject to civil sanctions.

- (R) A protective order shall not in any manner:
  - (1) affect title of real property;
  - (2) purport to grant to the parties a divorce or legal separation;
  - (3) or division of property;
  - (4) award child support.
- (S) A protective order may temporarily affect:
  - (1) a child custody and visitation order from any jurisdiction.
- (T) When granting a protective order for the protection of a minor child from violence or threats of abuse, the court shall allow visitation only under conditions that provide adequate supervision and protection to the child while maintaining the integrity of a divorce decree or temporary order.
- (U) The court shall refrain from issuing any mutual protective orders, as defined in this title. If both parties allege domestic abuse by the other party, the parties shall do so by separate petitions. The court shall review each petition separately, in an individual or a consolidated hearing and grant or deny each petition on its individual merits. If the court finds cause to grant both motions, the court may do so by separate orders and with specific findings justifying the issuance of each order.
- (V) The court may consolidate a hearing if:
  - (1) The court makes specific findings that:
    - (a) Sufficient evidence exists of domestic abuse, stalking, harassment, or sexual assault against each party, and
    - (b) Each party acted primarily as aggressors, and
  - (2) The defendant filed a petition with the court for a protective order no less than three (3) days, not including weekends or holidays, prior to the first scheduled full hearing on the petition filed by the plaintiff, and
  - (3) The original plaintiff had not less than forty-eight (48) hours prior notice to the full hearing on the petition filed by the original

defendant.

- (W) The court may allow a plaintiff or victim to be accompanied by a victim support person at court proceedings and such person may speak on the plaintiff's behalf with leave of court.

**Section 7.122      Police To Be Sent a Copy of The Protective Order**

- (A) Within twenty-four (24) hours of the return of service of any ex parte or final protective order, the clerk of the issuing court shall send certified copies thereof to all appropriate law enforcement agencies. A certified copy of any extension, modification, vacation, cancellation or consent agreement concerning a final protective order shall be sent within thirty-six (36) hours by the clerk of the court to those law enforcement agencies receiving the original orders pursuant to this section and to any law enforcement agencies designated by the court.
- (B) The Comanche Nation Police Department shall maintain a data base which is accessible twenty-four hours to provide information to any law enforcement agency seeking information regarding the validity of any protective orders issued by the court.

**Section 7.123      Violation of Protective Order-Punishment**

- (A) Any person who has been served with an ex parte or final protective order and is in violation of such protective order, upon conviction shall be guilty of Violation of the protective order and shall be punished by a fine not exceeding five thousand dollars (\$5,000.00) or by a term of imprisonment of not more than one (1) year, or both.
- (B) Any person who has been found guilty of violation of a protective order in Tribal or state court and is found guilty of a subsequent violation shall be guilty of a Violation of protective order second or subsequent offense and shall be punished by a fine not exceeding fifteen thousand dollars (\$15,000.00) or by a term of imprisonment of not more than three years, or both. In addition, the crime of violation of protective order second or subsequent violation also carries the punishment of banishment from the Comanche Nation.

**Section 7.124      Validity of Orders**

All orders issued pursuant to this code shall comply with the Violence Against Women Act's full faith and credit provision (18 USC § 2265) and are enforceable throughout Oklahoma, all fifty states, U.S. Territories, Tribal Lands, and the District of Columbia, unless specifically

modified or terminated by a judge of the district court, or Supreme Court Justice. In addition, all orders issued pursuant to this code shall be entered into a database accessible to all law enforcement officers, all orders entered into said database are presumed valid.

### **Section 7.125      Warrantless Arrest-Procedure**

- (A) A law enforcement officer, without a warrant, may arrest and take into custody a person if the law enforcement officer has probable cause to believe that:
  - (1) An emergency, ex parte, temporary, or final protective order has been issued by a Tribal Court or State District Court anywhere in the United States; and
  - (2) There is proof of the issuance of the protective order in a database accessible to all law enforcement officers; and
  - (3) The person named in the order has received notice of the order and has had a reasonable time to comply with such order; and
  - (4) The person named in the order has violated, or failed to comply with, the protective order.

### **Section 7.126      Foreign Protective Orders**

Foreign protective orders shall be enforceable upon Tribal property. Until a foreign protective order is declared invalid by a court of competent jurisdiction it shall be given full faith and credit by all law enforcement officers and courts within the Tribe's jurisdiction.

Law enforcement officers need not obtain a Tribal Judge's approval to enforce a foreign protective order pursuant to Section 7.125 of this Title. Report enforcement of a foreign protective order to the prosecutor's office within seventy-two (72) hours of such enforcement when arrest occurs.

### **Section 7.127      Address Confidentiality**

- (A) Persons attempting to escape from actual or threatened domestic violence, sexual assault, or stalking establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this section is to enable Tribal organizations to respond to requests for public records without disclosing the locations of Victims of Domestic Violence and to enable cooperation with the State of Oklahoma in providing confidentiality for Victims of Domestic Violence, and to enable the Tribal office of domestic violence to accept mailings for victims and to act as a substitute address. It is the duty of the victim to keep the Tribal

office of domestic violence and the court clerk informed of contact information.

- (B) As used in this section:
  - (1) “Address” means a residential street address, school address, or work address of an individual, who is a Victim of Domestic Violence;
  - (2) “Victim of Domestic Violence or Protected Person” means a person seeking protection through a Protective Order.
  - (3) “Domestic abuse” means any act of Domestic Violence as defined in Section 7.104 of this Code.
- (C) All persons with access to petitions or applications for protective orders are responsible for address confidentiality.
- (D) Disclosure of victim’s confidential information is a civil infraction punishable by up to a five thousand dollar (\$5,000.00) fine.

**Section 7.128      Mandatory Training**

All employees and contractors of the Comanche Nation Tribal Court, including the Judges, Prosecutors, and Public Defenders, as well as the Family Assistance Center and law enforcement shall participate in adequate annual training that may include, but not be limited to:

- (A) The dynamics of domestic violence, the impact of victimization, offenders’ reeducation programs, coordinated system response in order to facilitate the goals of this Title. In addition, law enforcement and prosecutor training shall include the technical aspects in making a domestic violence arrest including probable cause, self-defense, mutual arrest, evidence gathering, evidence-based prosecution and report writing.
  - (1) Reporting:
    - (a) Law enforcement will report to the training manager annually by December 31.
    - (b) All others will report to the Chief Judge of the Comanche Nation District Court annually by December 31.
  - (2) Training costs shall be paid through available grant funds, and/or through the appropriate department. Under no circumstances shall contractors or law enforcement officers be personally responsible for the costs of the mandatory training under this Title.

- (B) The Comanche Nation Tribal Court has the authority to order personnel attend appropriate training, subject to the availability of funding.

**Section 7.129      Severability Clause**

If any clause, section or part of this code is declared invalid by the Tribal court, such shall not render invalid the remainder thereof, but shall be confined in its operation to the offending section.