

Leech Lake Band of Ojibwe Judicial Code

amendments through November, 2014

TITLE XIX DOMESTIC VIOLENCE

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Chapter 1 TITLE, PURPOSE, AUTHORITY, DEFINITIONS

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§ 101. Short Title.

Title XIX shall be entitled “The Domestic Violence Code.”

§ 102. Purpose and Findings.

A. The Leech Lake Band of Ojibwe Domestic Violence Code is construed to promote the following:

- (1) The protection of traditional Ojibwe values. Domestic violence against family members is not in keeping with Ojibwe values. It is essential for the justice system to respond to victims of domestic violence with fairness, compassion, and in a prompt and effective manner in order to provide victims of domestic violence with safety and protection.
- (2) The promotion of traditional Ojibwe Values. It is imperative to utilize the justice system in setting standards of behavior within the family that are consistent with traditional Ojibwe values and to impose consequences upon offenders for behaviors that violate traditional Ojibwe values that hold women and children sacred. These consequences are designed to promote positive changes in behavior consistent with traditional Ojibwe values.
- (3) The practice of traditional Ojibwe Values. It is crucial to promote cultural teachings and traditional Ojibwe values that nurture non-violence within Ojibwe families through prevention and public education programs.

B. The Leech Lake Band of Ojibwe finds:

- (1) Traditional Ojibwe values honor the right to live free from violence, abuse, or harassment;
- (2) Many persons are subject to abuse and violence within the family and household setting;
- (3) Family members in such situations are at risk to be killed or suffer serious physical injury;
- (4) Children suffer lasting emotional damage as direct targets of abuse and violence and by witnessing the infliction of abuse and violence on other family and household members;
- (5) Elders are at risk for abuse and violence. The lack of services available for elders and

the changing family structure indicates that laws are necessary to insure the protection of elders within the family and household or other caretaker settings;

- (6) Such abuse and violence poses a major health and law enforcement problem to the Leech Lake Band of Ojibwe;
- (7) Abuse and violence can be prevented, reduced, and deterred through the intervention of law;
- (8) The legal system's efforts to prevent abuse and violence within the family and household setting will result in a reduction of negative behavior outside the family and household setting and in the community;
- (9) Abuse and violence among family members is not just a "family matter," which in the past provided justification for inaction by law enforcement personnel, prosecutors or courts. It is an illegal encounter which requires full application of protective laws and remedies;
- (10) An increased awareness of abuse and violence, and a need for its prevention, gives rise to the intent to provide maximum protection to victims of abuse and violence in the family and household setting; and
- (11) The integrity of the family, community, Leech Lake Band of Ojibwe culture and society can be maintained by efforts to remedy abuse and violence.

§ 103. Authority of the Leech Lake Band of Ojibwe.

- A. The Leech Lake Band of Ojibwe has the inherent authority to protect its political integrity and to provide for the welfare of its members and others who choose to live within its territory.
- B. The problem of domestic violence within the boundaries of the Leech Lake Reservation is seriously impacting the ability of the tribe to provide for the health and well-being of its tribal members and threatens the political integrity of the tribe.
- C. Domestic violence is also being perpetrated by or against persons who are not members of the Leech Lake Band of Ojibwe. These activities of non-members and non-Indians, who have entered into consensual relations with tribal members, will be regulated under this ordinance just as the activities of tribal members.
- D. The purpose of this Code is to establish laws prohibiting domestic abuse by or against any person within the jurisdiction of the Leech Lake Band of Ojibwe Reservation and to delegate to the Leech Lake Tribal Court the power to create and implement the administrative rules and procedures needed to enforce this Act.
- E. This Act shall be liberally construed to affect the purpose and scope stated above and shall be interpreted to comport with the customs and traditional Ojibwe values. In the event this Act

or custom and tradition are inconclusive in any matter arising under this Act, the Court may look for guidance pursuant to Leech Lake Tribal Code Title 1, Part VII Section 6.

§ 104. Definitions.

For purposes of this Code, the following definitions apply:

- A. Advocate. “Advocate” means an employee of, or a volunteer for, a program for victims of domestic violence, sexual assault, stalking or dating violence who has a primary function of giving information, referrals, counseling or assistance to victims of domestic violence, supervising the employees or volunteers of the program, or administering the program.
- B. Assault. “Assault” means
 - (1) The intentional infliction of or an attempt to inflict bodily harm upon another; or
 - (2) An act done with the intent to cause fear in another of imminent bodily harm or death.
- C. Causing apprehension of bodily injury. “Causing apprehension of bodily injury” means any physical act including utterance of verbal threats, which is intended to cause another person reasonably to fear serious bodily injury or death.
- D. Dating Relationship. “Dating Relationship” means a social relationship of a romantic or intimate nature, the existence of which shall be determined by the following:
 - (1) The length of the relationship;
 - (2) The type of relationship; and
 - (3) The frequency of interactions between the persons involved in the relationship.
- E. Domestic violence/abuse. “Domestic violence/abuse” means the occurrence of one or more of the following acts by a family or household member against a family or household member, but does not include acts of self-defense by the victim:
 - (1) Attempting to cause or causing physical harm or bodily injury to another family or household member;
 - (2) Placing a family or household member in fear of physical harm; or
 - (3) Causing a family or household member to engage involuntarily in sexual contact by force, threat of force, or duress;
 - (4) Terroristic threats;
 - (5) Interference with 911 call.

- F. Ex Parte. “Ex Parte” means only the requesting party is heard by the Court, and that notice and an opportunity to contest the facts are not available to the party adversely affected at that hearing.
- G. Family or household members. “Family or household members” means spouses, former spouses, persons who are dating or have dated in the past, persons who are engaged in or were engaged in a sexual relationship, parents and children, persons related by blood, and any other persons who are presently residing together or who have resided together in the same household within the past. “Family or household members” also includes a man and woman if the woman is pregnant, or has children in common and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.
- H. Order for Protection. “Order for Protection” means a court order granted for the protection of victims of domestic violence.
- I. Petitioner. “Petitioner” means the victim or intended victim of the domestic violence or abuse or, in the case of a minor or otherwise incompetent victim or intended victim, the “petitioner” means the parent, guardian or legal or physical custodian of the victim or intended victim, tribal prosecutor or such other person who by law or tribal custom is authorized to act on behalf of said minor or otherwise incompetent victim or intended victim.
- J. Physical harm and bodily injury. “Physical harm and bodily injury” means physical pain or injury, illness, or any impairment of physical condition.
- K. Safety plan. “Safety plan” means a written or oral outline of actions to be taken by a victim of domestic violence to secure protection and support after making an assessment of the dangerousness of the situation.
- L. Territory. Territory is defined in Title 1, Part II Section 1(A) of this Code.
- M. Unlawful. “Unlawful” means, in the absence of a Band criminal code, acts which are defined as such under federal, tribal, or Minnesota state criminal laws.

Chapter 2 ORDERS FOR PROTECTION

- 201. Jurisdiction.
- 202. Civil Remedy - Order for Protection.
- 203. Procedures.
- 204. Orders for Protection and Ex Parte Orders.
- 205. Relief Available and Content of Orders for Protection and Ex Parte Orders.
- 206. Court Duties.
- 207. Subsequent Orders and Extensions.

§ 201. Jurisdiction.

The Leech Lake Tribal Court has the jurisdiction to hear a cause of action for an Order for Protection and issue such an order if either the petitioner or the respondent resides within the territorial jurisdiction of the Tribal Court or if the actions constituting the basis of the petitioner occurred within the territorial jurisdiction of the Tribal Court.

§ 202. Civil Remedy – Order for Protection.

- A. Availability of Petition. A petition to obtain an Order for Protection under this Section may be filed by the victim or intended victim of the domestic violence or abuse or, in the case of a minor or otherwise incompetent victim or intended victim, the petition may be filed by a parent, guardian, or legal or physical custodian of the victim or intended victim, tribal prosecutor or such other person who by law, resolution or tribal custom is authorized to act on behalf of said minor or otherwise incompetent victim or intended victim.
- B. Contents of Petition. A petition shall allege the existence of domestic violence, and shall be supported by an affidavit made under oath stating the specific facts and circumstances justifying the requested order.
- C. Related Proceedings. A petition may be filed regardless of the pendency of any other civil or criminal proceeding related to the allegations in the petition.
- D. Separate Action. The petitioner, or the victim on whose behalf a petition has been filed, is not required to file an action for annulment, separation, or divorce as a prerequisite to obtaining an Order for Protection; the petition shall state whether any other action is pending between the petitioner or victim and the respondent, including child protection proceedings.
- E. Filing Fee. No filing fee shall be required for the filing of a petition under this section.
- F. Costs. Court administration and law enforcement shall perform their duties relating to service of process without charge to petitioner.
- G. Forms. Standard, simplified petition forms with instructions for completion shall be available to all persons. The Leech Lake Tribal Police Department, Tribal Court and advocates for domestic violence shall keep such forms and make them available upon request to victims of domestic violence.
 - (1) The Clerk of Court shall provide assistance with completing the forms to persons not represented by counsel.
 - (2) The standard forms for protection shall inform the Petitioner that information about her location or residence is not accessible to the public and may be disclosed only to law enforcement and the courts.

§ 203. Procedures.

- A. Filing of Application. Upon the filing of an application seeking an Order for Protection, the Court shall first determine whether an ex parte Order for Protection will be issued.

B. Hearings.

(1) If an ex Parte Order is issued, the Court shall not schedule a hearing unless one is requested by either party.

a. A hearing must be requested within 5 days of the service of the Order.

b. If a hearing is requested, the hearing shall be held within ten (10) business days from the date of receipt of the request.

(2) If an ex parte is not issued, the Court shall schedule a hearing to be held upon the merits of the application. The hearing shall be scheduled no later than ten (10) business days from the date of the filing of the petition.

C. Notice. The respondent, the petitioner, the Leech Lake Tribal Police and, if requested by Petitioner, an Advocate as defined in this section, shall each be served with written notice of the time, date and place of said hearing.

D. Service on Respondent.

(1) Personal. Service of the Petition, and any ex parte Order, Order for Protection or Notice of Hearing under this section shall be served on the respondent personally.

(2) When any Order for Protection or Ex Parte Order is issued under this Title, the court shall order the Tribal Police Department to assist in execution or service of the Order. If the application for relief is brought in which the respondent is not present, the officer shall forward the pleading necessary for service upon the respondent to the sheriff in the county of Minnesota in which the respondent is present. This transmittal must be expedited to allow for timely service.

(3) If a hearing is scheduled by the Court or at Petitioner's request, personal service of the order may be made upon respondent any time up to 24 hours prior to the time set for the hearing. If the respondent is served less than 5 days prior to the hearing, the respondent may request a continuance. If the respondent requests a continuance under these circumstances, the Court shall grant that continuance unless there are compelling reasons not to. If a continuance is granted, the Court shall extend the ex parte Order until the next continued hearing.

(4) If personal service cannot be made, the Court may order service by alternative means, including service by certified mail or service by publication. Petitioner must file with the Court an affidavit stating that an attempt at personal service was made but was unsuccessful because the respondent is avoiding service. Service by publication is complete seven days after publication.

(5) In the event service cannot be completed in time to give the respondent the minimum notice required under this section, the court may set a new hearing date no more than 5 days later.

(6) If respondent requests a hearing, respondent shall be served the notice of the date and time of the hearing by mail.

E. Service on Petitioner and Others.

- (1) The petitioner, prosecutor, advocate and Leech Lake Tribal Police may be served personally or by mail.
- (2) If the respondent requests a hearing after notice of an ex parte order, the Petitioner must be served at least 5 days prior to the hearing.
- (3) In the event service cannot be completed in time to give the petitioner the minimum notice required under this section, the court may set a new hearing date no more than 5 days later.

F. Informal Hearing. The hearing shall be conducted in an informal manner and factual findings shall be made by the court acting without a jury.

G. Burden of Proof. The burden of proof shall be upon the petitioner to prove the petition by a preponderance of evidence.

H. Right to Counsel. The respondent and petitioner shall have the right to be represented by counsel of his or her choice and at his or her own expense.

I. Continuances. The court may order the hearing to be continued upon the request of the respondent for the purpose of allowing the respondent to obtain counsel or prepare his or her own defense or for good cause shown by either party. In such an event, the court shall extend the time period of any order it has previously issued and may issue such additional order(s) modifying, enlarging, or altering the existing order as facts and circumstances may justify.

J. Witnesses. Both the respondent and the petitioner shall have the right to subpoena witnesses to testify on their behalf.

K. Response to Petition. The respondent may either admit or deny, in whole or in part, the allegations contained in the application or in a request for modification of an existing state or other tribal court Order for Protection. Should the respondent deny the allegation, the court may then and there proceed to hear testimony and accept evidence unless either party requests a further continuance and the court is satisfied under the circumstances that such a continuance is reasonable and necessary under the circumstances and is not solely for the purpose of delay.

L. Findings and Conclusions. Upon the conclusion of the hearing the court shall make its findings and conclusions and enter its order either granting a permanent Order for Protection or dismissing the proceedings. The permanent order will be valid for a period not to exceed two years except when the court determines a longer period is appropriate. The order may be renewed for additional periods of time at the request of the petitioner pursuant to section 206.

- M. **Order Granting Relief.** When a Judge presides at the hearing on the petition, the order granting relief becomes effective upon the Judge's signature.
- N. **Modification of Order.** An order granting the relief authorized in this Code may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an Order for Protection concurrently with a proceeding for dissolution of marriage upon notice and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate Order for Modification of an Order for Protection shall be issued.
- O. **Providing a Copy of Order for Protection for File.** If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the Order for Protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.
- P. **Mutual Restraining Orders.** The court shall not issue mutual restraining Orders for Protection nor an Order for Protection against one who has applied for an Order for Protection from domestic violence or abuse. Where opposing parties seek Orders for Protection against each other, or a party that is the respondent in an Order for Protection seeks an order against the petitioner, the Court must determine which party is the primary aggressor. Following such determination, the Court must dismiss the petition filed by the party who is determined to be the primary aggressor. In determining which party is the primary aggressor, the Court may consider prior domestic violence/abuse involving either party, the severity of the injuries inflicted on each person, the potential for future injury, whether either party acted in self-defense, or any other evidence the court may find important in making the determination.
- Q. **Motions.** Either party may subsequently move the court for an order dismissing, modifying, enlarging, extending, or otherwise altering the terms of the Order for Protection previously issued. Service of such a motion shall be made in accordance with this Code. No such motion shall be granted or denied until a hearing has been held before the court to which all parties have been summoned or noticed to appear.
- R. **Effect of Action by Petitioner or Respondent on Order.** The Court shall notify the Respondent that an invitation by the petitioner to do an act prohibited by the Order does not waive or void the Order for Protection.
- S. **Additional Relief.** If the petitioner seeks relief under the Leech Lake Band of Ojibwe Judicial Code: Title XIX: Domestic Violence Code other than the relief described in section 204, the petitioner must request a hearing to obtain the additional relief.

§ 204. Orders for Protection and Ex Parte Orders.

Upon the filing of a petition for Order for Protection,

- A. The Court shall immediately grant an ex parte Order for Protection if the application under this section alleges an immediate and present danger of domestic abuse.

- B. Ex Parte Orders may also be granted if the Court finds sufficient evidence to believe that the petitioner or the person on whose behalf the petition has been filed is the victim of an act of domestic violence committed by the respondent, and issuance of the Ex Parte Order for Protection is necessary to protect the victim and/or the children from further abuse prior to a scheduled hearing in the matter.
- C. A finding by the court that a basis for granting an ex parte order constitutes a finding that sufficient reasons exist not to require notice under applicable court rules governing applications for ex parte relief.
- D. A hearing shall be set as provided by section 203.
- E. An ex parte Order for Protection, together with the petition and any notice of hearing, shall be served immediately on the respondent. Service shall be made as provided in this Code.
- F. An ex parte Order for Protection shall be effective for a fixed period set by the court or until modified or vacated by the court pursuant to a hearing.
- G. When signed by a Judge, the ex parte Order for Protection becomes effective upon the Judge's signature.
- H. If the petitioner does not request a hearing, an order served on a respondent under this subdivision must include a notice advising the respondent of the right to request a hearing, a form that can be used by the respondent to request a hearing, and conspicuous notice that a hearing will not be held unless requested by the respondent within five days of service of the order.

§ 205. Relief Available and Content of Orders for Protection and Ex Parte Orders.

An Ex Parte Order for Protection or an Order for Protection entered after notice and hearing shall, when deemed appropriate by the Court, include the following provisions. If relief is requested pursuant to sections I through Q herein, the Court must schedule a hearing.

- A. Restraining the respondent from committing any acts of domestic violence.
- B. Excluding the respondent from the residence including the area around the residence of the victim, whether or not the respondent and the victim share that residence.
- C. Enjoining the respondent from, or otherwise limiting access to, the petitioner's place of employment or education.
- D. Restraining the respondent from any contact with the petitioner whether in person, by telephone, mail, or electronic mail or messaging, through a third party, or by any other.
- E. Ordering the continuance of all currently available insurance coverage without change in coverage or beneficiary designation.

F. Awarding temporary custody or establishing temporary parenting time with regard to minor children of the respondent on a basis which gives primary consideration to the safety of the victim of domestic violence and the minor children.

(1) The court may also consider particular best interest factors relevant to the temporary custody and parenting time award. The court's decision on custody and parenting time shall in no way delay the issuance of an Order for Protection granting other relief provided for in this section.

(2) If the Court finds that the safety of the victim or the minor children will be jeopardized by unsupervised or unrestricted visitation, the Court shall set forth conditions or restrict visitation as to the time, place, duration, or supervision, or deny visitation entirely, as needed, to guard that safety of the victim and the minor children.

(3) Any temporary custody shall provide for child support and temporary support for the person having custody of the children, in amounts deemed proper by the Court. The Court may order the withholding of support from the income of the person obligated to pay the support.

G. Awarding temporary use and possession of property of the parties.

H. Restraining one or both parties from transferring, removing, encumbering, mortgaging, concealing, disposing, or altering property except as authorized by the Court, and requiring that an accounting be made to the Court for all authorized transfers, encumbrances, disposition, and expenditures made after the order is served or communicated to the party restrained in open court.

I. Ordering the abusing party to participate in treatment or counseling services, including requiring the abusing party to successfully complete a domestic abuse counseling program or educational program.

J. Provide, upon request of the petitioner, counseling or other services for the parties, if married or if there are minor children.

K. Prohibiting the actor from using or possessing a firearm or other weapon specified by the Court.

L. Ordering the actor to forfeit the firearm or other specified weapon to Leech Lake Tribal Police.

M. Ordering temporary guardianship with regard to an elderly or handicapped victim of domestic violence if necessary for the safety of the elderly or handicapped person.

N. Directing the care, possession, or control of a pet or companion animal owned, possessed, or kept by the petitioner or respondent or a child of the petitioner or respondent; and

- O. Directing the respondent to refrain from physically abusing or injuring any pet or companion animal, without legal justification, known to be owned, possessed, kept, or held by either party or a minor child residing in the residence or household of either party as an indirect means of intentionally threatening the safety of such person.
- P. Ordering the abusing party to pay restitution to the petitioner, which order shall be enforceable as a civil judgment;
- Q. Ordering the respondent to timely pay any existing debts of the respondent, including mortgage or rental payments, necessary to maintain the petitioner in his/her residence.
- R. Describing any prior orders of the Court relating to domestic matters which are superseded or altered by the Order for Protection.
- S. Notifying the parties that the willful violation of any provision of the order by the respondent constitutes contempt of court and/or a crime punishable by a fine or imprisonment or both in Leech Lake Tribal Court and other applicable foreign Court.
- T. Ordering, in the Court's discretion, any other lawful relief as it deems necessary for the protection of any victim or potential victim of domestic violence, including orders or directives to the Leech Lake Tribal Police Department or any other appropriate law enforcement.
- U. When an Order is issued under this section and upon the request of Petitioner, the court shall order law enforcement to accompany the petitioner and assist in placing the petition in possession of the dwelling or residence, or otherwise assist in the execution or service of the Order for Protection. If the respondent is not present with the territorial jurisdiction of the Leech Lake Band of Ojibwe, law enforcement shall forward the orders necessary for service upon the respondent to the appropriate law enforcement agency.
- V. Notices. Orders for Protection granted under this section must contain a notice to respondent that:
 - (1) Violation of the order can be criminally prosecuted by any law enforcement agency with jurisdiction over the matter;
 - (2) Respondent is forbidden to enter or stay at petitioner's residence, even if invited to so by petitioner. An invitation by petitioner does not void the order;
 - (3) An officer must arrest without warrant and take into custody a person whom the officer has probable cause to believe has violated the order restraining them from a residence; and
 - (4) Pursuant to federal law,
 - a. The order is enforceable in all 50 states, the District of Columbia, tribal lands and U.S. territories under the Violence Against Women Act of 1994, Title 18,

Section 2265,

- b. Violation of the order may also subject respondent to federal charges and punishment under United States Code, Title 18 Sections 2261 and 2262, and
- c. If a final order is entered against the respondent after a hearing, respondent may be prohibited from possessing, transporting, or accepting a firearm under the 1994 amendment to the Gun Control Act, United States Code, Title 18, section 922(g)(8).

§ 206. Court Duties.

- A. **Copies to Other Agencies.** An Order for Protection granted by the Court shall be forwarded to the Ninth Judicial District Court Administrator and to law enforcement with jurisdiction over the residence of respondent within 24 hours.
- B. **Change of Address.** When an Order for Protection is granted, the Court must instruct petitioner that a notification of change of address should be given immediately to the court administrator and to the local law enforcement agency having jurisdiction over the new residence of petitioner so that the Order for Protection can be forwarded to the appropriate law enforcement agency. The Order for Protection must be forwarded to the new law enforcement agency within 24 hours of notification of change of residence. Failure to give notice does not nullify the Order for Protection.

§ 207. Subsequent Orders and Extensions.

- A. Upon application, notice to all parties, and hearing, the court may extend the relief granted in an existing Order for Protection or, if a petitioner's Order for Protection is no longer in effect when an application for subsequent relief is made, grant a new order. The court may extend the terms of an existing order or, if an order is no longer in effect, grant a new order upon a showing that:
 - (1) The respondent has violated a prior or existing Order for Protection;
 - (2) The petitioner is reasonably in fear of physical harm from the respondent;
 - (3) The respondent has engaged in the act of stalking within the meaning of Title XX.
 - (4) The respondent is incarcerated and about to be released, or has recently been released from incarceration.
 - (5) A petitioner does not need to show that physical harm is imminent to obtain an extension or a subsequent order under this subdivision.
- B. Relief granted by the Order for Protection may be for a period of up to 50 years, if the court finds:
 - (1) The respondent has violated a prior or existing Order for Protection on two or more

occasions; or

- (2) The petitioner has had two or more Orders for Protection in effect against the same respondent.
- (3) An order issued under this paragraph may restrain the abusing party from committing acts of domestic abuse; or prohibit the abusing party from having any contact with the petitioner, whether in person, by telephone, mail or electronic mail or messaging, through electronic devices, through a third party, or by any other means.

Chapter 3 LAW ENFORCEMENT REQUIREMENTS

301. Duties of Police Officers.

302. Arrest.

303. Foreign Orders.

304. Protection of the Victim.

§ 301. Duties of Police Officers.

- A. **Primary Duty of Police Officers.** The primary duty of police officers when responding to a domestic violence situation is to enforce the laws and to ensure safety.
- B. **Notification to Victim.** If the victim is present when the officer arrests a person for domestic violence, the officer shall advise the victim of reasonable means to prevent further abuse, the availability of a shelter and other services in the community, let the victim know that a victim's advocate will be contacting them and give the victim immediate notice of any legal rights and remedies available in accordance with the Leech Lake Band of Ojibwe Judicial Code: Title XIX: Domestic Violence Code.
- C. **Rights of Victim.** The victim shall be furnished with a copy of the following rights entitled to victims of domestic assault:
 - (1) You have the right to ask the city or county attorney to file a criminal complaint;
 - (2) You have the right to file a petition with the court requesting an Order for Protection from domestic abuse. The order could include the following:
 - a. Restraining the abuser from further acts of abuse;
 - b. Directing the abuser to leave your household;
 - c. Preventing the abuser from entering your home, school, business, or place of employment;
 - d. Awarding you or the other parent custody of or visitation with your minor child(ren); or
 - e. Directing the abuser to pay child support to you and the minor child(ren).
 - (3) You have the right to notification if prosecution of the case is declined or criminal charges are dismissed.

§ 302. Arrest.

- A. An officer shall arrest without a warrant and take into custody a person whom the officer has probable cause to believe has violated an order granted pursuant to this section restraining the person or excluding the person from the residence or petitioner's place of employment even if the violation of the order did not take place in the presence of the officer if the existence of the order can be verified by the officer.
- B. The probable cause required includes probable cause that the person knows of the existence of the order. If the order has not been served, the officer shall serve the order as soon as possible under the circumstances.
- C. If the respondent is served at a location at which, under the terms of the order, the respondent's presence constitutes a violation, the respondent shall not be arrested without a reasonable opportunity to leave the location in the presence of the officer.
- D. An officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that may result from the officer's actions.

§ 303. Foreign Orders.

An officer shall treat an order of another jurisdiction as a valid legal document and shall make an arrest for a violation of an Order for Protection in the same manner as the officer would make an arrest for the violation of an Order for Protection issued by the Leech Lake Tribal Court.

§ 304. Protection of the Victim.

A law enforcement officer responding to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including but not limited to:

- A. Taking action necessary to provide for the safety of the victim and any family or household members.
- B. Transporting or obtaining transportation for the victim or any minor children (or children) to a temporary shelter.
- C. Assisting the victim and any minor child (children) in obtaining immediate medical treatment, including obtaining transportation to a medical facility.

**Chapter 4
VIOLATIONS**

- 401. Civil Penalties.
- 402. Criminal Penalties.

§ 401. Civil Penalties.

- A. **Civil Contempt.** The court may exercise its civil contempt powers prescribed in Title 1, Part VI of the Leech Lake Band of Ojibwe Judicial Code, if necessary, to enforce any orders which may be issued pursuant to this Code or entitled to full faith and credit pursuant to section 501. Civil contempt remedies may include exclusion from the territorial jurisdiction of the Leech Lake Band of Ojibwe.
- B. **Hearing.** Upon the filing of an affidavit by the petitioner, law enforcement officer or other interested party alleging a violation of an Order for Protection issued pursuant to this section, the Court may issue an order to the respondent requiring the respondent to appear and show cause within fifteen (15) days why the respondent should not be held in contempt.
- C. **Fine.** A respondent who willfully violates the terms of an Order for Protection issued by the Leech Lake Tribal Court and found in contempt may be fined a civil fine up to \$5,000.

§ 402. Criminal Penalties.

Criminal penalties will be referred to appropriate law enforcement for prosecution under Minnesota Statute 518B.01 subdivision 14 until such time as the Leech Lake Band of Ojibwe has the capacity to enforce criminal sanctions.

**Chapter 5
FULL FAITH AND CREDIT**

501. Full Faith and Credit.

§ 501. Full Faith and Credit.

- A. Any Order for Protection issued by a state, other tribal court or U. S. territory that is consistent with the provisions of 18 U.S.C. section 2265 (Violence Against Women Act of 1994), and any amendment thereto, shall be presumed valid, given full faith and credit, and enforced as if it were an order of the Tribal Court.
- B. **Procedures.** A person with an Order for Protection consistent with this section may provide a certified or other authenticated copy of an Order for Protection to the court administrator for filing and entry into the Order for Protection database. Orders that are not certified or authenticated may be filed if it is supported by an affidavit of a person with personal knowledge, subject to the penalties for perjury. The person protected by the order may provide the affidavit.

**Chapter 6
EFFECT ON OTHER PROCEEDINGS & SEVERABILITY**

601. Effect on Other Proceedings.

602. Severability.

§ 601. Effect on Other Proceedings.

- A. **Criminal Proceedings.** Testimony offered by a respondent in hearing pursuant to this section

is not admissible in a criminal proceeding.

- B. Custody Proceedings. In a current or subsequent custody proceeding the court must consider a finding in a proceeding under this section or under a similar law of another state that domestic violence/abuse has occurred between the parties.

§ 602. Severability.

If any provision of this Title, or the application thereof, to any person is held invalid, such invalidity shall not affect the provisions or applications of this Title which can be given effect without the invalid provisions, and to this end the provisions of this Title are declared severable.

**Chapter 7
APPEALS**

701. Who Can Appeal.

702. Appeals Procedure.

§ 701. Who Can Appeal.

Any party to a domestic violence proceeding pursuant to this Code may appeal a final court order.

§ 702. Appeals Procedure.

All appeals from proceedings under this Code shall be heard pursuant to the Leech Lake Band of Ojibwe Appellate Procedures.