

WYANDOTTE NATION
TITLE 7
DOMESTIC AND FAMILY VIOLENCE CODE
(Approved by the Board of Directors 10-2-2026)

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**WYANDOTTE NATION
TITLE 7
DOMESTIC AND FAMILY VIOLENCE CODE**

INTRODUCTION

Section 1. Short Title and Citation.

This Title may be cited as the “Domestic and Family Violence Code.”

Section 2. Purpose.

(a) The purpose of this Title is to protect all persons, who are within the jurisdiction of the Wyandotte Nation Tribal Court, from all forms of domestic violence, abuse and other crimes as defined in the Wyandotte Nation Codes. This Title shall be liberally construed and interpreted in order to achieve its purpose. This Title embodies the intent of the Nation to promote the following goals:

- (1) To recognize the illegal nature of domestic abuse and family violence;
- (2) To provide victims of domestic abuse and family violence with the maximum protection from abuse that can be made available under law;
- (3) To establish an efficient and flexible remedy that discourages violence against, and harassment of persons within a family setting, or others with whom the abuser has continuing contact;
- (4) To expand the ability of law enforcement officers to assist victims, to enforce existing laws, and to prevent subsequent incidents of abuse;
- (5) To facilitate the reporting of covered crimes;
- (6) To develop a greater understanding of the incidence and causes of domestic abuse and family violence by encouraging data collection and evaluation;
- (7) To protect the rights of victims and their families; and
- (8) To reduce the incidence of domestic abuse, family violence, and other covered crimes which have a detrimental and lasting effect on the individual, the family, culture, and society.

Section 3. Liberal Construction of this Title in Compliance with Federal Law.

This Title shall be liberally construed to authorize the Wyandotte Nation to prosecute all criminal acts, omissions and violations, consistent with Federal law. The Wyandotte Nation hereby exercises “Special Tribal Criminal jurisdiction” as a “participating tribe,” as defined within 25

U.S.C. § 1304, subject to applicable exceptions defined therein, in the Wyandotte Nation's Special Tribal Criminal Division.

Section 4. Severability.

If any provision or portion of this Title is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Title shall not be affected. The Board of Directors hereby declares that it would have passed the remaining parts of the Title even if it had known that such part or parts or application of any part thereof would be declared invalid.

Section 5. Savings.

This Title takes effect on the date approved by the Board of Directors and does not extinguish or modify any civil or criminal liability or enforcement of such penalty or forfeiture that existed on or prior to the effective date of this Title and such code shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such civil or criminal action, enforcement of any penalty, forfeiture or liability.

Section 6. Non-Waiver of Sovereign Immunity.

Nothing in this Title shall be deemed a waiver by the Nation of its sovereign immunity for any reason whatsoever.

Section 7. Limitation on Liability.

Nothing contained in this Title gives rise to a cause of action brought by a victim against the Wyandotte Nation or its officials or agents.

CHAPTER ONE DOMESTIC ABUSE AND FAMILY VIOLENCE

Section 101. Jurisdiction.

(a) The Wyandotte Nation Tribal Court shall have jurisdiction over acts of domestic violence, dating violence, domestic abuse, stalking, assault, battery, or harassment and associated causes of action or other covered crimes:

- (1) Committed by any person over whom the Court has jurisdiction;
 - (2) That are planned, initiated, transpire, occur or are completed, within the Wyandotte Nation jurisdiction; or
 - (3) That are threatened against any person over whom the Court has jurisdiction.
- (b) The Wyandotte Nation's exercise of jurisdiction is an exercise of its inherent authority.

Section 102. Evidentiary Standards.

(a) Testimonial Privileges.

(1) In a proceeding where a spouse or other family or household member is allegedly the victim of a covered crime as outlined in Wyandotte Nation Code, the following evidentiary privileges do not apply to protect the perpetrator:

(i) the privilege of confidential communication between spouses, and

(ii) the testimonial privilege of spouses.

(b) Evidence, Hearsay Exception. The Court shall admit into evidence as an exception to the hearsay rule learned treatises or other reliable materials which describe and explain domestic abuse and its impact upon victims.

Section 103. Duties of Law Enforcement Officer.

(a) A law enforcement officer who responds to an allegation of domestic violence or abuse shall use all reasonable means to protect the victim and others present from the abuse or other covered crimes.

(b) Law enforcement officers shall give immediate and adequate notice of the rights of victims and/or the remedies and services available to victims of domestic abuse or other covered crimes.

Section 104. Duties of Prosecutor.

(a) A prosecutor shall make a reasonable effort to notify the victim when the prosecutor declines to prosecute or dismisses the domestic abuse charges, or enters into a plea agreement.

(b) A prosecutor shall notify the victim of the rights for victims of domestic abuse or other covered crimes.

Section 105. Victim's Notice of Resources and Rights.

(a) When a law enforcement officer responds to a call alleging that domestic violence or other covered crimes has been committed, the officer shall inform any alleged or potential victim of the procedures and resources available for the protection of such victim, including:

(1) An order for protection pursuant to this Title and/or an injunction.

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

(3) Telephone numbers for emergency services in the local community

(b) When responding to a call alleging domestic violence or other covered crimes has occurred or may be committed, a law enforcement officer shall advise the victim of the following rights:

(1) The right to request that charges be pressed against the defendant;

(2) The right to request protection from any harm or threat of harm arising out of cooperation with law enforcement and prosecution efforts as far as facilities are available and to be provided with information on the level of protection available;

(3) The right to be informed of financial assistance and other social services as a result of being a victim, including information on how to apply for the assistance and services; and

(4) The right to a medical examination for the procurement of evidence to aid in the prosecution of the accused.

(c) The prosecuting officer for the court shall provide the same notice to a victim of domestic abuse and refer the victim to the Wyandotte Nation Victim's Services.

(d) Neither law enforcement, nor the prosecuting officer shall be civilly liable for noncompliance with the provisions of this Section.

Section 106. Victims Not to be Discouraged from Pressing Charges; Warrantless Arrest of Certain Persons; Emergency Temporary Order of Protection.

(a) A law enforcement officer shall not discourage a victim of rape, domestic abuse, or other covered crimes from pressing charges against the accused perpetrator.

(b) A law enforcement officer may arrest without a warrant a person anywhere, including his place of employment or residence, if the officer has probable cause to believe the person within the preceding seventy-two (72) hours has committed an act of domestic abuse or other covered crimes as defined by Wyandotte Nation Code, although the assault did not take place in the presence of a law enforcement officer. A law enforcement officer may not arrest a person pursuant to this Section without first observing a recent physical injury to, or an impairment of the physical condition of, the alleged victim.

(c) When an arrest has been made pursuant to Subsection (b) of this Section, the victim shall be advised of their right to make application for a protective order from the Court. When the Court is not open for business, the victim of domestic abuse may request a petition for an emergency temporary order of protection. The law enforcement officer making the preliminary investigation shall:

(1) Provide the victim with a petition for an emergency temporary order of protection and, if necessary, assist the victim in completing the petition;

(2) Immediately notify, by telephone or otherwise, a judge of the District Court of the request for an emergency temporary order of protection and describe the circumstances. The judge

shall inform the law enforcement officer of his/her decision to approve or disapprove the emergency temporary order;

(3) Inform the victim whether the judge has approved or disapproved an emergency temporary order. If an emergency temporary order has been approved, the officer shall provide the victim with a copy of the petition and a statement signed by the officer that the judge has approved the emergency temporary order of protection and notify said victim that the emergency temporary order shall be effective only until the close of business on the next day that the Court is open for business;

(4) Notify the person subject to the emergency temporary protection order of the issuance and conditions of the order. Notification pursuant to this Section may be made personally by the officer or in writing. A copy of the petition and the statement of the officer attesting to the order of the judge shall be made available to said person; and

(5) File a copy of the petition and statement of the officer with the District Court immediately upon the opening of the Court on the next day the Court is open for business.

(d) The forms utilized by law enforcement in carrying out the provisions of this Section shall be substantially similar to those set forth in Section 201 of Chapter Two of this Title.

Section 107. Standard of Proof, Defenses.

(a) The civil standard of proof shall apply to proceedings under this Title, except as otherwise specified in this Title. The Court shall grant a protection order when a preponderance of the evidence shows that it is more likely than not that an act of domestic abuse or other covered crimes has occurred or is likely to occur. The order's purpose shall be to prevent the occurrence or recurrence of a crime.

(b) A petitioner shall not be denied relief under this Title because:

(1) The petitioner used reasonable force in self-defense against the respondent;

(2) The petitioner has previously filed for a protective order and subsequently reconciled with the respondent;

(3) The petitioner has not filed for a divorce; or

(4) The petitioner or the respondent is a minor.

(c) Neither intoxication nor spousal immunity shall be considered a defense in a proceeding for the issuance or enforcement of a protection order under this Title.

Section 108. Tribal Court Registry for Orders of Protection.

(a) The Wyandotte Nation Tribal Court Clerk's Office shall maintain a registry of all protective orders issued by the Wyandotte Nation or otherwise registered for enforcement within the Wyandotte Nation.

(b) The Clerk shall provide certified protective orders to the Wyandotte Nation law enforcement within 24 hours after issuance.

(c) The registry shall include the names of the persons protected, the name of the respondent and their address, the date the order was entered, the expiration date of the order, and the relief granted.

(d) The registry shall be available at all times to inform courts, dispatchers, and law enforcement officers of any valid protection order issued within the Nation or filed as a foreign order for purposes of enforcement.

(e) Protective Orders shall be kept in the registry for a period of seven (7) years post expiration of the order.

Section 109. Criminal Penalties.

Nothing in this Title shall prevent the filing of criminal sanctions as defined in Title 5 of the Wyandotte Nation Code of Laws in addition to consequences imposed for violation of provisions of this Title.

Section 110. Full Faith and Credit for Valid Foreign Protection Orders.

(a) Any valid order of protection issued by a court of another tribe, state, or territory shall be given full faith and credit by the Court and law enforcement of the Wyandotte Nation and enforced as if it were issued by the Wyandotte Nation.

(b) An order of protection shall be deemed valid if:

(1) It was issued by a tribal, state or territorial court with jurisdiction over the parties and subject matter under the laws of the tribal, state or territory; and

(2) The defendant was given reasonable notice and the opportunity to be heard before the order of the foreign tribe, state or territory was issued.

(c) There shall be a presumption in favor of validity where an order appears authentic on its face.

Section 111. Filing of a Foreign Protection Order.

A person who obtains a valid protective order in another tribe, state or territory may file the order in the Wyandotte Nation Court by presenting a certified copy of the foreign order to the Clerk of the Wyandotte Nation Court for entry into the tribal protection order registry.

Section 112. Law Enforcement Immunity for Reliance Upon a Foreign Order.

A law enforcement officer may rely upon a copy of any foreign protective order which has been provided to the officer by any source, wherein the officer reasonably believes the order to remain in effect. A law enforcement officer acting in good faith shall be immune from civil and/or criminal liability in any action arising in connection with a court's finding that the order was not enforceable.

CHAPTER TWO PROTECTION FROM DOMESTIC ABUSE

Section 201. Petition for Protective Order.

(a) A victim of domestic abuse, other covered crimes, a victim of stalking, a victim of harassment, any adult or emancipated minor on behalf of any other family or household member who is a minor or incompetent, or any minor age sixteen (16) or seventeen (17) years may seek relief under the provisions of this Title by filing a petition for protective order with the Wyandotte Nation's District Court for the benefit or against any person with whom the Wyandotte Nation has a basis for exercising jurisdiction as set forth in Section 3 of this Title.

(b) When the abuse or activities giving rise to the need for an order of protection occur at a time when the Court is not open for business, such petitioner may request an emergency temporary order of protection through Wyandotte Nation law enforcement. In such instances, the law enforcement officer shall immediately contact a judge of the District Court and advise of the request for an emergency temporary order of protection. The judge shall inform the officer of his decision to approve or disapprove the emergency temporary order. The law enforcement shall notify the petitioner of the judge's decision by providing a statement on the petition. The issuance of this temporary emergency order shall be effective only until the close of business on the next day that the Court is open for business.

(c) The petition forms shall be provided by the Clerk of the Court and shall substantially be in the following form:

IN THE DISTRICT COURT OF THE WYANDOTTE NATION

_____	)	
Petitioner,	)	Case No.: _____
	)	
vs	)	
	)	
_____	)	
Respondent.	)	

PETITION FOR PROTECTIVE ORDER

COMES NOW, _____, Petitioner herein, pro se, and for this cause of action, the Petitioner alleges and states the following:

1. That the Petitioner is:

☐ a member of the Wyandotte Nation,

☐ a member of another federally recognized tribe; Tribe: _____

☐ a resident of the Wyandotte Nation,

☐ is non-Indian.

That the Respondent is:

☐ a member of the Wyandotte Nation,

☐ a member of another federally recognized tribe; Tribe: _____

☐ a resident of the Wyandotte Nation,

☐ is non-Indian.

Please state Respondent's address:

☐ The action complained of occurred, or is threatened to occur within the Wyandotte Nation.

2. (Check one or more)

☐ The Respondent caused or attempted to cause serious physical or emotional harm or sexual abuse to _____.

☐ The Respondent threatened _____ with imminent serious physical harm.

☐ The Respondent has stalked or harassed _____.

3. The incident which caused the filing of this petition occurred on or about _____ 20____. Please describe the events which necessitated the filing of this petition:

4. The victim and the Respondent are related as follows: (check one)

- ☐ married
- ☐ divorced
- ☐ parent and child
- ☐ persons related by blood
- ☐ persons related by marriage
- ☐ present spouse of an ex-spouse
- ☐ persons living in the same household
- ☐ persons formerly living in the same household
- ☐ biological parents of the same child
- ☐ other: _____

5. Complete this Section only if the Petitioner is filing on behalf of someone else, minor or incompetent.

The Petitioner and the victim are related as follows: (check one)

- ☐ married
- ☐ divorced
- ☐ parent and child
- ☐ persons related by blood
- ☐ persons related by marriage
- ☐ present spouse of an ex-spouse
- ☐ persons living in the same household
- ☐ persons formerly living in the same household
- ☐ biological parents of the same child
- ☐ other: _____

6. (Check A or B)

☐ A. The victim is in immediate and present danger of abuse from the defendant and an emergency *ex parte* order is necessary to protect the victim from serious harm. The Petitioner requests the following relief in the emergency *ex parte* order (check one or more)

☐ B. The Petitioner does not request an emergency *ex parte* order.

Petitioner requests the following order(s) to be made by the Court: (Check one or more)

- ☐ order the Respondent not to abuse or injure the victim.
- ☐ order the Respondent not to visit, assault, molest, or otherwise interfere with the victim directly or through third parties.
- ☐ order the Respondent not to threaten the victim.
- ☐ order the Respondent to cease stalking the victim.
- ☐ order the Respondent to cease harassment of the victim.
- ☐ order the Respondent to leave the residence located at _____ on or before _____.

☐ order temporary suspension of visitation with minor child(ren) due to physical violence or threat of abuse or violation of a custody order.

☐ order the Respondent who is a minor, age: _____, to leave the residence located at _____ by immediately placing the Respondent in any type of care authorized for children pursuant to the laws of the Wyandotte Nation.

☐ additional relief requested: _____

WARNING: Whoever makes a statement or allegation in this Petition for Protective Order but does not believe that statement or allegation is true, or knows that it is not true, or intends thereby to avoid or obstruct the ascertainment of the truth, may be found guilty of perjury. Pursuant to Section 406 of the Wyandotte Nation Criminal Offense Code is a felony and is punishable by a fine not to exceed Fifteen Thousand Dollars (\$15,000) or by a term of imprisonment not to exceed three (3) years, or by banishment or exclusion for a term not to exceed two (2) years or by any combination thereof.

I, _____, Petitioner, being of lawful age and duly sworn state that I have read the foregoing Petition for Protective Order and am familiar with its contents and declare under penalty of perjury, that the facts and statements contained herein are true and correct to the best of my knowledge and belief.

WHEREFORE, the Petitioner prays that the Court grant and issue the Petitioner an Order against the Respondent as requested in this Petition and a hearing be set as soon as the Court deems it necessary.

Petitioner (Signature)

Petitioner (Printed Name)

Witness my hand and seal, affixed this ____ day of _____, 20__.

Court Clerk/Notary Public

(d) No filing fee shall be charged to the Petitioner at the time the petition is filed. The Court may assess court costs and filing fees to the Respondent at the hearing on the petition or to the petitioner if the Court specifically finds the Petitioner filed a false petition or report.

(e) The Petitioner shall prepare the petition or, at the request of the Petitioner, the Clerk of the Court may assist the Petitioner in preparing the petition.

Section 202. Confidentiality of Petitioner's Information.

A Petitioner seeking protection shall not be required to disclose his/her address, place of residence, or employment, except to the judge, or judicial designee, for the purpose of determining jurisdiction.

Section 203. Emergency Ex Parte Order and Hearing; Emergency Temporary Ex Parte Order of Protection.

(a) When a Petitioner requests an emergency ex parte order pursuant to Section 201 of this Chapter, the Court shall hold an ex parte hearing on the same day as the petition is filed. The Court may, for good cause shown at the hearing, issue any emergency ex parte order that it finds necessary to protect the victim from immediate and present danger of domestic abuse, stalking, or harassment. The emergency ex parte order shall be in effect until such time as a full hearing on the merits is conducted. An emergency ex parte order authorized by this Section may include the following:

- (1) An order to the respondent not to abuse or injure the victim;
- (2) An order to the respondent not to visit, assault, molest, harass or otherwise interfere with the victim;
- (3) An order to the respondent not to threaten the victim;
- (4) An order to the respondent not to stalk the victim
- (5) An order to the respondent not to harass the victim;
- (6) An order to the respondent to leave the residence;
- (7) An order removing the Respondent who is a minor child from the residence by immediately placing the child in any type of care facility authorized for children taken into custody pursuant to Wyandotte Nation law; or
- (8) Any such orders the Court finds reasonable and necessary to prevent the Respondent from abusing, assaulting, molesting, stalking, harassing or otherwise interfering with the victim.

(b) Upon Petitioner's request for an emergency temporary ex parte order of protection pursuant to Section 106 of Chapter 1 of this Title, the judge who is notified of the request by a law enforcement officer may issue such order verbally to the officer or in writing when there is reasonable cause to believe that the order is necessary to protect the victim from immediate and present danger of domestic abuse. When the order is issued verbally the judge shall direct the officer to complete and sign a statement attesting to the order. The emergency temporary ex parte order shall be in effect until the close of business on the next day the Court is open for business after the order is issued.

Section 204. Service of Process; Ex Parte Orders; Hearings; Protective Orders.

(a) A copy of the petition, notice of hearing and a copy of any ex parte order issued by the Court shall be served upon the Respondent. Ex parte orders shall be given priority for service by the law enforcement and can be served twenty-four (24) hours a day. When the Respondent is a minor child who is ordered removed from the residence of the victim, in addition to those documents served upon the Respondent, a copy of the petition, notice of hearing and a copy of any ex parte order issued by the Court shall be delivered with the child to the caretaker of the place where such child is taken pursuant to the Wyandotte Nation Title 9, Delinquent Code.

(b) Within thirty (30) days of the filing of the petition, the Court shall schedule a hearing on the merits of the petition. Provided, however, when the Respondent is a minor child who has been removed from the residence pursuant to Wyandotte Nation law, the Court shall schedule a full hearing on the merits within seventy-two (72) hours, excluding weekends and holidays, regardless of whether an emergency ex parte order has been issued or requested.

(c) Upon hearing the merits of the matter, the Court may grant any protective order to bring about the cessation of domestic abuse against the victim or stalking or harassment of the victim. If the Court grants a protective order and the Respondent is a minor child, the Court shall order a preliminary inquiry in a juvenile proceeding to determine whether further action pursuant to the Juvenile Delinquency Code of the Wyandotte Nation should be taken against a juvenile Respondent.

(d) Protective orders authorized by this Section may include the following:

- (1) An order to the Respondent not to abuse or injure the victim;
- (2) An order to the Respondent not to communicate, visit, assault, molest, harass or otherwise interfere with the victim;
- (3) An order to the Respondent not to threaten the victim;
- (4) An order to the Respondent to cease stalking the victim;
- (5) An order to the Respondent to cease harassment of the victim;
- (6) An order to the Respondent to leave the residence;
- (7) An order awarding attorney fees;
- (8) An order not to contact the Petitioner, directly or through other means;
- (9) An order awarding court costs;

(10) Any such orders the Court finds reasonable and necessary to prevent the Respondent from abusing, assaulting, molesting, stalking, harassing or otherwise interfering with the victim; and

(11) An order requiring a preliminary inquiry in a juvenile proceeding pursuant to the Juvenile Delinquency Code of the Wyandotte Nation.

(e) After notice and hearing, protective orders authorized by this Section may require the Petitioner and the Respondent or both to undergo treatment or participate in counseling services necessary to bring about cessation of domestic abuse against the victim. Either party or both may be required to pay all or any part of the cost of such treatment or counseling services. The Court shall not be responsible for such cost.

(f) When necessary to protect the victim and when authorized by the Court, protective orders granted pursuant to the provisions of this Title may be served upon the Respondent by the Wyandotte Nation Tribal Police or by any other authorized officer.

(g) If a child has been removed from the residence of a parent or custodial adult because of domestic abuse committed by the child, the parent or custodial adult may refuse the return of such child to the residence, unless upon further consideration by the Court, in a juvenile proceeding, it is determined that the child should be allowed to return to the residence.

(h) No order issued pursuant to this Chapter, shall in any manner affect title to real property, purport to grant the parties a divorce or otherwise purport to determine the issues between the parties as to child custody, visitation, child support or division of property or any other like relief obtainable in the laws of the Wyandotte Nation, provided, however, an order of protection may temporarily suspend child visitation if the Court finds the children are subject to or threatened with domestic abuse by the Respondent.

Section 205. Protective Order; Statement Required; Validity.

In addition to any other provision required by this Title, or otherwise required by the laws of the Wyandotte Nation, each ex parte or final protective order issued pursuant to this Title shall have the following statement printed in bold-faced type or in capital letters:

"THE FILING OR NON-FILING OF CRIMINAL CHARGES AND THE PROSECUTION OF THE CASE SHALL NOT BE DETERMINED BY A PERSON WHO IS PROTECTED BY THIS ORDER, BUT SHALL BE DETERMINED BY THE PROSECUTOR. NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

Section 206. Duration of Protective Orders.

(a) An emergency protective order shall be effective until a full hearing with notice is conducted by the Court. Provided that if the Respondent fails to appear after notice, the Court may grant a permanent order with a duration of up to five (5) years. Any emergency ex parte order issued shall state: "IF YOU FAIL TO APPEAR AT THE HEARING, A PERMANENT ORDER MAY BE ISSUED WITHOUT FURTHER NOTICE TO YOU."

(b) Protective Orders issued after notice and hearing may remain in effect for a period of up to five (5) years, or until further order of the Court, whichever comes first.

(c) A Petitioner may request an extension of the duration of the protective order at any time before its expiration and the Court may grant same if there is reasonable cause to believe an extension of the order is necessary to prevent domestic abuse. The Court may grant an extension of the order for any period of time not to exceed an additional five (5) years.

(d) Nothing in this Title shall prevent a Petitioner from seeking a subsequent protective order against a Respondent after the expiration of any ex parte or final protective order.

Section 207. Access to Protective Orders by Law Enforcement Agencies.

Within twenty-four (24) hours of the return of service of any ex parte or final protective order, the Court Clerk shall provide certified copies thereof to all appropriate law enforcement agencies. A certified copy of any modification, cancellation or consent agreement concerning a final protective order shall be sent by the clerk to those law enforcement agencies receiving the original orders pursuant to this Section.

Section 208. Violation of Ex Parte or Final Protective Order - Penalty.

(a) In addition to any other penalty specified in Title 5 of the Wyandotte Nation Criminal Offense Code, Section 520, the Court may require a defendant to undergo treatment or participate in counseling services necessary to bring about the cessation of domestic abuse against the victim or to bring about the cessation of stalking or harassment of the victim.

(b) When a minor child violates the provision of any protective order, the violation shall be heard in a juvenile proceeding and the Court may order the child and the parent or parents of the child to participate in family counseling services necessary to bring about the cessation of domestic abuse against the victim and may order community service hours to be performed in lieu of any fine or imprisonment authorized by this Section.

Section 209. Civil Seizure of Property Used in the Act of Violating a Protective Order.

(a) All property, used in the furtherance of committing an act of violation of a protective order as set forth herein, which is:

(1) Found in the possession, custody, or control of any person, for the purpose of assisting, in violating this Title, or transporting the perpetrator for the purpose of violating the provisions of this Title, or with the intent to avoid apprehension for violations hereunder, and

(2) Any automobile, truck, conveyance, or other vehicle whatsoever used in violating this Title, whether by or for transporting the respondent, harassment of the victim, or other purposes, and

(3) All cash, weapons, cell phones, computers, paraphernalia, mechanical, electronic or digital equipment or other tangible personal property incident to domestic abuse or violation of a protective order, whether temporary or final, found or in the control of the perpetrator or any person assisting in a knowing violation of this Title, may be seized by any authorized law enforcement officer, without process. Any assets seized shall be, from the time of seizure, forfeited to the Wyandotte Nation, and proper procedure filed to maintain such seizure and prosecute the forfeiture as herein provided.

(b) Any and all property seized pursuant to this Section shall be listed and appraised by the officer making such seizure and the property turned over to the Wyandotte Nation Police and a receipt made. The officer making the seizure shall promptly file a written report to the Court Clerk and the Prosecutor, showing the name of the officer making the seizure, the place and time of the seizure, the person from whom the property was seized, and an inventory and appraisal thereof, at the estimated usual and ordinary retail price of such article received, to the best of the officer's knowledge.

(1) Unless the seized property is being held as evidence for a civil or criminal action, the Prosecutor may, within thirty (30) days of seizure, file in the Court forfeiture proceedings in the name of the Wyandotte Nation, as Plaintiff, and in the name of the owner or person in possession as Defendant, if known, and if unknown, in the name of the property seized. The Clerk of the Court shall issue summons to the owner or person in whose possession such property was found, directing the owner or person to answer within fifteen (15) days.

(i) If, by a preponderance of the evidence, the property is found to have been used in an act of violating a protective order, the property may be declared forfeited by the Court and ordered sold.

(ii) If the property is shown to belong to a third party not involved in or a party of the domestic abuse act which gave rise to the seizure, and that the property will not likely be used in further violation of this Title, the seized property may be returned to the third-party owner.

(iii) If the Defendant or owner proves at the forfeiture hearing that the conduct giving rise to the seizure was justified, the seized property shall be returned to the owner.

(2) The proceeds of the sale of the seized property shall be deposited with the Court Clerk who shall, after reimbursing any costs to the Nation of seizure and sale, remit any amount due the victim from the Respondent for restitution for violating this Title. The Nation may deposit any remaining balance into the Court Fund.

(c) The seizure of property shall not be credited to the person from whom it was seized and shall not relieve the person from any prosecution, payment of fines or penalties, or compliance with other court orders provided under this Title.

Section 210. Warrantless Arrest.

(a) A Wyandotte Nation law enforcement officer, without a warrant, may arrest and take into custody a person if the officer has reasonable cause to believe that:

(1) An emergency ex parte or final protective order has been issued and served upon the person pursuant to this Title;

(2) A true copy and proof of service of the order has been filed with the law enforcement agency having jurisdiction of the area in which the petitioner or any family or household member named in the order resides;

(3) The person named in the order has received notice of the order and has had reasonable time to comply with such order; and

(4) The person named in the order has violated the order or is then acting in violation of the order.

(b) A person arrested pursuant to this Section shall have a reasonable bond amount set within twenty-four (24) hours after arrest; and

(1) The Court shall set a specific time for hearing on the alleged violation of the order to be held within seventy-two (72) hours of the arrest unless a bond has been set or the defendant requests a continuance of the matter: and

(2) The Clerk of the Court shall notify the party who has procured the order and direct the party to appear at the hearing and give evidence on the charge.

Section 211. Effect of Action by Petitioner or Respondent on Order.

If the Court orders Respondent to be excluded from the residence of Petitioner or orders Respondent to stay away from the Petitioner, an invitation by the Petitioner to visit or enter does not waive or nullify a protective order. Further, the Petitioner cannot violate or be arrested for a violation of a protective order granted on their behalf.

Section 212. Mutual Order for Protection Discouraged.

A protection order entered against both the Petitioner and the Respondent shall not be enforceable against the Petitioner unless:

(1) The Respondent files a written pleading, such as cross or counter complaint, seeking a protection order, and

(2) The Court makes specific findings of harassment, stalking, assault, or domestic or family violence against both the Petitioner and the Respondent and determines that each party is entitled to such an order.

Section 213. Judicial Responsibilities.

The Court shall:

(1) Not grant nor deny relief to the Petitioner based upon employment, age, economic, educational, social, political, and/or mental and physical status of the Petitioner or Respondent;

(2) Not deny a Petitioner relief because of a reasonable lapse of time between an act of domestic abuse and the filing of a petition; and

(3) Inform the victim of domestic abuse of services and advocacy available through the Wyandotte Nation Victim's Services Program.

Section 214. Criminal Case Shall Not Be Dismissed Based Upon Civil Compromise.

A court shall not dismiss a criminal complaint charging domestic abuse for the sole reason that a civil compromise has been reached by and between the Petitioner and the Respondent.

Section 215. Vacating of Protective Orders.

(a) A party who wishes to have a protective order vacated must move the Court for such an order.

(b) A protective order shall be vacated only by court order.

(c) In determining whether or not to vacate a protective order, the Court shall consider the following:

(1) Whether the Petitioner agrees the protective order should be vacated;

(2) Whether the Respondent has attended counseling and whether the Respondent has complied with any recommendations of a domestic abuse counseling program;

(3) Whether the Respondent has complied with the terms of the protective order as issued;

(4) Whether the circumstances have changed so as to remove the danger to the Petitioner from the Respondent; and

(5) Any other factors the court deems relevant.

(d) All Wyandotte Nation law enforcement officers shall enforce any protective order that has neither expired nor been vacated, regardless of the current status of the parties' relationship.

CHAPTER THREE

SPECIAL TRIBAL CRIMINAL JURISDICTION

Section 301. Special Domestic Violence Court Created.

There is hereby created and established within the Wyandotte Nation District Court a Special Tribal Criminal Division whose powers and duties are set forth in this Title and which shall be subject to all criminal procedures of the Nation to the extent they do not conflict with the provisions contained in this Chapter.

Section 302. Special Tribal Criminal Jurisdiction.

(a) The Wyandotte Nation reaffirms in this Section that it is exercising “Special Tribal Criminal Jurisdiction” as a “participating tribe,” as defined within 25 U.S.C. § 1304, subject to applicable exceptions defined therein, in the Wyandotte Nation’s Special Tribal Criminal Division.

(b) In all proceedings in which the Wyandotte Nation Court is exercising Special Tribal Criminal Jurisdiction, the rights in Section 303 shall be provided in addition to all rights enumerated in the Indian Civil Rights Act, 25 U.S.C. § 1302 to all Defendants. Should there be any conflict between the rights herein and 25 U.S.C. § 1302, those of 25 U.S.C. § 1302 shall apply.

Section 303. Rights Applicable.

(a) Rights of the Defendant: In all criminal proceedings pursuant to this Title, the Defendant shall be afforded all rights consistent with the Indian Civil Rights Act of 1968 (as amended), including but not limited to the following rights:

- (1) To be provided with effective assistance of counsel;
- (2) If determined by the Court to be indigent, a court appointed, law trained and licensed defense attorney;
- (3) To have their case presided over by a licensed and sufficiently law trained judge;
- (4) That all Wyandotte Nation criminal offenses, rules of evidence and procedure are available to the public;
- (5) That a record of the proceeding is maintained, either by audio or other recording;
- (6) The right to a trial by an impartial jury which reflects a fair cross-section of the community and that is drawn from sources that do not systematically exclude any distinctive group in the community;

(7) That the Court ensures the Defendant is notified in writing of their rights.

Section 304. Special Jurisdiction - Criminal Conduct Applicable.

The Wyandotte Nation exercises the Special Tribal Criminal Jurisdiction over a Defendant for conduct that falls into one or more of the following categories:

- (a) Domestic Violence;
- (b) Dating Violence;
- (c) Sexual Violence;
- (d) Sex Trafficking;
- (e) Stalking;
- (f) Child Violence;
- (g) Assault of Tribal Justice Personnel;
- (h) Violation of Protection Orders; and
- (i) Obstruction of Justice.