

Q: How long does the PO last?

A: The judge will determine how long the order will last, based on what you ask for and the evidence you present.

Q: Is it possible for me to violate my own PO?

A: No, you cannot violate or be arrested for violating your own PO. But, for your own safety and believability, you should not invite the Respondent to do something the Order has forbidden. This includes contacting the Respondent when the Respondent is not allowed to contact you.

Q: What if Respondent violates the PO?

A: You should immediately contact law enforcement officials to report the violation. The Respondent may be charged criminally and prosecuted for violating the PO.

Q: May the PO be modified?

A: Yes, if you can show the Court the PO needs to be changed, the Court may modify it. You must use the same process used to obtain the original PO.

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Additional considerations:

- You cannot be ordered by the Court to do mediation, counseling, or traditional peacemaking with the Respondent if it would put you in the position of dealing directly with the Respondent.
- At the hearing, the Respondent may not obtain a PO against you. The Court may not enter mutual orders. If the Respondent wants a PO against you, he/she must make a separate application for a PO using proper procedure.
- The Court cannot deny the PO just because the abuse occurred some time ago.
- There are no fees for filing or serving a PO.
- The Court must tell you about services available through the Santee Sioux Domestic Violence Program. A PO issued by another tribal, state or county court must be honored by the Santee Sioux tribal law enforcement, even if it contains protection that is not available under Santee Sioux Tribal Law. Such an order can be registered with the Santee Sioux Tribal Court.

SANTEE SIOUX NATION

Domestic Abuse

Awareness:

Protection Order FAQs



To apply for legal assistance please call:

Native American AccessLine®

Toll-free: 1-800-729-9908

Hours of Operation:

Monday through Friday

9 a.m. to Noon CST

Q: What is Domestic Abuse?

A: Causing or attempting to cause physical harm or placing in fear of physical harm, a family or household member or causing that person to engage in sexual activity by force, duress, or threat of force or duress.

Q: Who is considered a family or household member?

A: Adults or minors who are: current or former spouses, are dating or have dated, are or have been in a sexual relationship, are or were related by marriage, or have a child in common.

Q: What is a Protection Order (PO)?

A: It is a court order from a judge that will protect an individual from abuse or harassment by the abuser (also known as the Respondent).

Q: Who can file for a PO?

A: Anyone who is or has been a victim of domestic abuse by a family or household member. A parent or guardian can file a PO on behalf of a minor child. Either you or Respondent must live on or be found on the reservation or the abuse must have happened on the reservation.

Q: What do I do to get a PO?

A: Fill out the petition, which is available from the clerk of court. It will include an affidavit, which is your sworn statement regarding how the abuse occurred. You must list any other civil or criminal cases that involve both you and the Respondent in tribal, state, or federal court. For safety reasons, you do not have to write your address on the paperwork, but the Court must have it in a confidential file.

Q: What may the Court order the Respondent to do?

A: The Court may order many things, including ordering Respondent to: (1) stop threatening to harm or harming you; (2) stay away from your home, work, or school; (3) stop contacting you; (4) give you a family vehicle to use; (5) give up guns or other weapons; (6) pay rent or mortgage; (7) pay support for you or minor children, and (8) join an abuse intervention program. The Court can also make orders for temporary custody and visitation.

Q: What is an Ex Parte PO?

A: It is an order signed by a judge before any notice is given to the Respondent or a hearing is held. The judge will look over your statements or medical and police reports. If it is reasonable to believe that domestic violence occurred, the judge may sign the order immediately to protect you or your children.

Q: When will the Court hold the hearing for the PO and what happens there?

A: If the Court signs an ex parte PO, a hearing will be scheduled within the next 14 days. The tribal court clerk will serve both you and the Respondent with notice of the hearing. At the hearing, the Court will hear evidence from both sides to determine if the PO should be made permanent. If Respondent was served with notice of hearing and does not show up, the Court must still issue a permanent PO if evidence proves it is needed. If Respondent could not be served, the court can continue the hearing for another 14 days. Then, even if Respondent was not served, the Court can enter a permanent PO if evidence shows it is needed.

Q: What if the Ex Parte Order is denied?

A: There will still be a hearing and you may present evidence that the Protection Order is necessary. If the Respondent does not get notice of the hearing and does not appear, it will be rescheduled in another 14 days. If the Respondent fails to appear at the 2nd hearing after receiving notice, the Order may be granted, based on the evidence and testimony you present to the judge.