

**Q: When is the hearing, and what happens there?**

**A:** If the Court grants an ex parte PO that includes orders for custody, visitation or payment of certain costs and fees, the Court must set a hearing within 14 days of your petition being filed. Otherwise, the Court will set a hearing within 30 days if either you or Respondent requests a hearing. If the Court denies your request for a PO, you can ask for a hearing. You and the Respondent may call witnesses and present evidence at any hearing.

**Q: Who will serve the Respondent with the petition?**

**A:** Personal service is required for the PO or an ex parte PO. The Court will deliver the PO to the tribal court process server for service on Respondent. For ex parte orders, the Respondent must be served with a copy of the order, the petition, the affidavit, and notice of the date of the hearings.

**Q: May the Court modify the PO?**

**A:** Yes. You must file an application for modification, notice must be given to Respondent, and a hearing set, although in the case of an emergency, the Court can enter an ex parte modification order.

#### **Additional considerations:**

- The Court may allow your address to remain confidential if revealing it would create further risk of abuse to you or family members.
- You or the Respondent must reside on the reservation **or** the violence must have occurred on the reservation.
- The Court may not deny the PO simply because some time has passed since the act of abuse.
- The Court may only grant a PO against you if Respondent shows sufficient basis.
- You should immediately report violations to law enforcement.
- The Court must refer you to the domestic violence program.
- Certified copies of POs from other tribes, states, or counties may be filed with the Clerk of Court and enforced by tribal law enforcement.

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# **WINNEBAGO TRIBE**

## **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 Violence (DV)?

**A:** Causing or attempting to cause physical harm to another family or household member; placing a family or household member in fear of physical harm. Causing a family or household member to have forced sexual activity. *Defending yourself is not DV.*

### Q: What is a Protection Order (PO)?

**A:** A court order preventing a family or household member from committing any act of domestic abuse, including phoning, stalking, or contacting you directly or indirectly. The PO may also exclude the abuser from your own residence, work or school, or a home you share with that person. A PO is effective until further order of the court.

### Q: What is a Temporary PO?

**A:** A Temporary PO is exactly the same as a PO, except it will only last for thirty (30) days at which time a hearing must be held, or until further order of the Court.

### Q: Who can I get a PO against?

**A:** A spouse, former spouse; a person related by adoption, blood, or marriage; a person living in the same household; children; a person you lived with; or a person you have a child with, or someone you are dating or have dated. This person is the Respondent.

### Q: When can I file for a PO?

**A:** At any time after a domestic violence incident has occurred, as described above.

### Q: How do I ask for a PO in Winnebago Tribal Court?

**A:** The Clerk of Court will have the forms available, with instructions for completion. 1) The petition may be filed by you against any of the persons listed previously. 2) In an affidavit you must describe the violence that took place, and by who, including your relationship to that person. The affidavit must be notarized. 3) You may ask for a PO if there are currently other legal cases involving both you and the Respondent, but you must list those cases, such as a divorce or custody case. This will not affect the Court's decision. 4) There is no cost to file or serve a PO.

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

**A:** If the Court decides that DV has taken place, the Court may order the Respondent to do many things, including: 1) to stop threatening to harm or harming you or your children; 2) to stay away from your work, school, or home, even if he is an owner of the home; 3) order temporary custody, visitation, and child support for any minor children you have together; 4) order that you have use of a vehicle unless Respondent can prove he/she needs it to go to work; 5) to pay rent or a mortgage; 6) to surrender weapons to law enforcement; 7) anything else the Court believes is necessary for your safety.

### Q: What is an Ex Parte PO?

**A:** A PO that can be entered by the Court without notice to Respondent and before a hearing if the Court believes it is necessary to protect you. If you ask for an ex parte PO and are denied, you have the right to request a hearing. A law enforcement officer may also provide a statement to the Court that an ex parte PO is needed immediately.