

CJY-53-93

Class "C" Resolution
No BIA Action Required.

RESOLUTION OF THE
NAVAJO NATION COUNCIL

Approving the Domestic Abuse Protection Act
of the Navajo Nation.

WHEREAS:

1. Pursuant to 2 N.T.C. Section 102 (a), the Navajo Nation Council is the governing body of the Navajo Nation; and
2. Domestic violence is occurring on the Navajo Nation in epidemic proportions. Many Navajo persons are beaten, harassed, threatened or otherwise subjected to abuse within the domestic setting; and
3. Domestic abuse has a lasting detrimental effect on the individuals who directly experience the abuse and on their children, who carry memories of violence with them into their adult lives and may themselves become violent and abusive; and
4. Domestic abuse in all its forms poses a major health and law enforcement problem to the people of the Navajo Nation. Domestic abuse may be prevented, reduced and deterred through the intervention of the law; and
5. It is the policy of the Navajo Nation and the tradition of its people to protect household members from violence. The integrity of the Navajo family will be protected and maintained by legislation which addresses domestic abuse; and
6. The Health and Social Services Committee of the Navajo Nation Council by Resolution HSSC-JY-58-93 reviewed, discussed and recommended that the Navajo Nation Council enact the Domestic Abuse Protection Act; said resolution is attached as Exhibit "A"; and
7. The Judiciary Committee of the Navajo Nation Council by Resolution JCJY-9-93 reviewed, discussed and recommended that the Navajo Nation Council enact the Domestic Abuse Protection Act; said resolution is attached as Exhibit "B".

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Nation Council recognizes the greatly detrimental affects that domestic abuse has on Navajo society and

hereby enacts the Domestic Abuse Protection Act (attached as Exhibit "C") in order to address the problem and to protect Navajo citizens from abuse.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 69 in favor, 1 opposed and 0 abstained, this 23rd day of July 1993.


Speaker
Navajo Nation Council

July 28, 1993
Date Signed

Motion: Johnny Descheny
Second: Emmett Bia

ACTION BY THE EXECUTIVE BRANCH

1. Pursuant to 2 N.T.C. Section 1005 (c)(1), I hereby sign into law the foregoing legislation on this 29 day of July 1993:



Peterson Zah, President
Navajo Nation

* * * *

2. Pursuant to 2 N.T.C. Section 1005 (c)(10), I hereby veto the foregoing legislation this ___ day of ___ 1993 for the reason(s) expressed in the attached letter to the Speaker:

Peterson Zah, President
Navajo Nation

RESOLUTION OF THE
HEALTH AND SOCIAL SERVICES COMMITTEE
OF THE NAVAJO NATION COUNCIL

Recommending That the Navajo Nation Council Approve
the Domestic Abuse Protect Act as Amended

WHEREAS:

1. Pursuant to 2 N.T.C., Sections 451 and 454 (b) (1), the Health and Social Services Committee is hereby established and continued as a standing Committee of the Navajo Nation Council and is empowered to represent the Navajo Nation in matters relating to health, social services and environmental health; and

2. Pursuant to 2 N.T.C., Section 454 (b) (6), the Health and Social Services Committee has been authorized by the Navajo Nation Council to present and recommend legislation to ensure the safety of the Navajo people; and

3. Domestic abuse in all its forms possess a major health and law enforcement problem to the people of the Navajo Nation. Domestic abuse can be prevented, reduced and deterred through the intervention of law; and

4. The Navajo Nation Council received the Domestic Abuse Protection Act into its record on April 30, 1993. The Council directed the sponsor to address comments and concerns raised by the Navajo Nation Department of Justice and the Judiciary Committee of the Navajo Nation Council. The matter was tabled until such comments and concerns were addressed; and

5. The Judiciary Committee of the Navajo Nation Council recommended, by Resolution JCJY-9-93, that the Health and Social Services Committee of the Navajo Nation Council approve the Domestic Abuse Act as amended by the Judicial Branch; and

6. The comments and amendments of the Navajo Nation Department of Justice of the Judicial Branch and the Health and Social Services Committee have been incorporated into the Act, attached herein as Exhibit "A".

NOW THEREFORE BE IT RESOLVED THAT:

The Health and Social Services Committee of the Navajo Nation Council recommends that the Navajo Nation Council enact the Domestic Abuse Protection Act, as amended, after comments by

the Navajo Nation Department of Justice and the Navajo Nation Judicial Branch, in order to address this problem and to protect Navajo citizens from abuse.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Health and Social Services Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 5 in favor, 0 opposed and 0 abstained, this 23rd day of July, 1993.



Chairperson
Health and Social Services Committee

Motion:
Second:

**RESOLUTION OF THE
JUDICIARY COMMITTEE OF THE
NAVAJO NATION COUNCIL**

**Approving the Amendments to the Proposed Domestic
Abuse Protection Act and Recommending the Same to
the Navajo Nation Council**

WHEREAS:

1. Pursuant to 2 N.T.C., Section 571 (a) (b), the Judiciary Committee of the Navajo Nation Council is established as a permanent standing committee with oversight responsibilities for the Judicial Branch of the Navajo Nation; and

2. Pursuant to 2 NTC, Section 574 (e) (2), the Judiciary Committee has the power "to review legislation and make recommendations regarding any proposed or current laws, procedures and regulations affecting or creating any impact on the Judicial Branch". The proposed Domestic Abuse Protection Act and amendments, attached and incorporated as Exhibit "A", have been reviewed by the Judicial Branch and Judiciary Committee and are now being recommended to the Health and Social Services Committee and the Navajo Nation Council for approval; and

3. The Judiciary Committee finds and declares that:

(a) Alcohol abuse is the most severe health and social problem facing the Navajo Nation, causing untold suffering and disharmony through the undermining of the foundation of Navajo society, the family; and

(b) The trend on the reservation and nationally is to move away from institutionalization toward rehabilitation and restitution and recognition of the victim's rights in domestic problems. The major contributing factor to the high rate of crime on the Navajo Nation is the use and availability of alcohol on the Navajo Nation; and

(c) The Department of Law Enforcement's Bootlegging Task Force reports 325 bootleggers (illegal delivery of alcoholic beverages) thriving on the Navajo Nation who are the primary sources of alcoholic beverages on the Navajo Nation; thus, the statistics show that this Nation leads by twice the numbers in alcohol abuse based upon size and population affected; and

- (d) Another area that shows this Nation has alcohol abuse problems is the high incidence of Fetal Alcohol Syndrome in which the Navajo Nation is leading the United States by three times the national average; and
- (e) The Courts of the Navajo Nation addressed this problem in 1992, when the Navajo Nation Supreme Court issued its Rules for Domestic Violence Proceedings which were adopted by the Judiciary Committee on October 2, 1992, and are now the laws of the Navajo Nation; and
- (f) This legislation is concerned with the prevention of future crime, compensation and restitution for victims and drug and alcohol treatment programs for the offenders.

NOW THEREFORE BE IT RESOLVED THAT:

The Judiciary Committee of the Navajo Nation Council hereby approves the amendments to the proposed Domestic Abuse Protection Act, in keeping with the Self-Determination concept and development of the Navajo Nation Council and Criminal Code, and recommends the same to the Health and Social Services Committee and the Navajo Nation Council for their approval of the attached Exhibit "A", the proposed Domestic Abuse Protection Act.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Judiciary Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 6 in favor, 0 opposed and 0 abstained, this 22nd day of July, 1993.



Chairman
Judiciary Committee

Motion: Lee B. Roy
Second: Tim Goodluck

Exhibit C

DOMESTIC ABUSE PROTECTION ACT

Presented by:
DNA-People's Legal Services, Inc.
P.O. Box 306
Window Rock, Arizona 86515
Contact - Chris O'Shea
(602) 674-5242

TITLE NINE
DOMESTIC RELATIONS

| CHAPTER | | SECTION |
|----------------|------------------|----------------|
| 1. | Marriage | 1 |
| 3. | Husband and Wife | 201 |
| 5. | Divorce | 401 |
| 7. | Adoption | 601 |
| 9. | Guardians | 801 |
| 11. | Juvenile Code | 1001 |
| 13. | Domestic Abuse | 1601 |

Chapter 13. Domestic Abuse

SUBCHAPTER 1. GENERAL PROVISIONS

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SUBCHAPTER 1. GENERAL PROVISIONS

§ 1601 Short Title

This Act may be cited as the "Domestic Abuse Protection Act."

§ 1602 Policy

It is the policy of the Navajo Nation to demonstrate respect for members of the Navajo family and clan. This respect has long been a tradition of The People, and is reflected throughout Navajo history and culture. Abuse against persons in a domestic setting has a lasting and detrimental effect on (1) the individuals who directly experience the abuse, (2) the entire family and clan, as members indirectly experience the abuse, and (3) the Navajo Nation, as the victims and abusers carry the adverse effects of domestic abuse out of the family and into society itself. It is in the Nation's best interest to protect family and clan members from abuse. Accordingly, the Navajo Nation will not tolerate domestic abuse perpetrated against any person.

§ 1603 Findings

The legislature of the Navajo Nation finds that:

- (a) Many persons are beaten, raped, harassed, or otherwise subjected to abuse within the family and clan setting;
- (b) Some persons are killed as a result of abuse within the family and clan setting;
- (c) Children suffer lasting emotional damage as direct targets of domestic abuse, and by witnessing the infliction of domestic abuse on other family and clan members;
- (d) The increase in the population of elderly Navajo citizens, the lack of services available for these citizens, and the changing family structure indicates that laws are necessary to insure the protection of elders within the family and clan setting, and in their caretaking settings;
- (e) All persons have the right to live free from violence, abuse, or harassment;
- (f) Domestic abuse in all its forms poses a major health and

- law enforcement problem to the Nation;
- (g) Domestic abuse can be prevented, reduced, and deterred through the intervention of law;
 - (h) The legal system's efforts to prevent abuse in the family and clan setting will result in a reduction of violent behavior outside of the family and clan setting;
 - (i) Abuse among family and clan members is not a "family matter," which justifies inaction by law enforcement personnel, prosecutors, or courts, but an illegal encounter which requires full application of protective laws and remedies;
 - (j) An increased awareness of domestic abuse, and a need for its prevention, gives rise to the legislature's intent to provide maximum protection to victims of abuse in the family and clan setting; and
 - (k) The integrity of the family, clan and of Navajo culture and society will be maintained by legislative efforts to remedy domestic abuse.

§ 1604 Purpose

The purpose of this Act is to protect all persons; men, women, children, elders, disabled persons, and other vulnerable persons, who are within the jurisdiction of the Navajo Nation, from all forms of domestic abuse as defined by this Act and by Navajo Nation law. The Act shall be liberally construed and interpreted in order to achieve its purposes. The Act embodies the intent of the legislature to promote the following goals:

- (a) To recognize the illegal nature of domestic abuse;
- (b) To provide victims of domestic abuse with the maximum protection from abuse that can be made available under the law;
- (c) To establish an efficient and flexible remedy that discourages violence against and harassment of persons within a family or clan setting, or others with whom the abuser has continuing contact;
- (d) To expand the ability of law enforcement officers to

assist victims, to enforce existing laws, and to prevent subsequent incidents of abuse;

- (e) To facilitate the reporting of domestic abuse;
- (f) To develop a greater understanding of the incidence and causes of domestic abuse by encouraging data collection and evaluation; and
- (g) To reduce the incidence of domestic abuse, which has a detrimental and lasting effect on the individual, the family, culture, and society.
- (h) Nothing in this Act shall be construed to alter or diminish the existing authority of the Courts of the Navajo Nation to provide remedies to address domestic abuse and prevent tortious conduct, including remedies provided by American common law, the law of equity, and Navajo common law.

§ 1605 Definitions

These definitions shall be liberally construed so as to protect all persons who are subjected to domestic abuse. As used in this Act:

(a) Domestic Abuse

- (1) Domestic abuse means the infliction of any of the following acts upon a victim as defined in §1605(b):
 - (A) "Assault" - an attempt to cause bodily harm to another through the use of force, or the creation in another of a reasonable fear of imminent bodily harm;
 - (B) "Battery" - application of force to the person of another resulting in bodily harm or an offensive touching;
 - (C) "Threatening" - words or conduct which place another in fear of bodily harm or property damage;
 - (D) "Coercion" - compelling an unwilling person, through force or threat of force, to:
 - (i) engage in conduct which the person has a right to abstain from; or

- (ii) abstain from conduct which the person has a right to engage in;
- (E) "Confinement" - compelling a person to go where the person does not wish to go or to remain where the person does not wish to remain;
- (F) "Damage to Property" - damaging the property of another;
- (G) "Emotional Abuse" - using threats, intimidation, or extreme ridicule to inflict humiliation and emotional suffering upon another;
- (H) "Harassment" - conduct which causes emotional alarm and distress to another by shaming, degrading, humiliating, placing in fear, or otherwise abusing personal dignity. Examples of harassing conduct include, but are not limited to the following:
 - (i) unwelcome visiting or following of a person;
 - (ii) unwelcome sexual propositioning, references to body functions or attributes, or other comments of a sexual nature;
 - (iii) unwelcome communications, made by phone or by other methods, containing intimidating, taunting, insulting, berating, humiliating, offensive, threatening, or violent language; or
 - (iv) unwelcome lingering around the home, school, or work place of a person;
- (I) "Sexual Abuse" - any physical contact of a sexual nature, or attempted physical contact of a sexual nature, with a person, made without that person's consent. Consent cannot be obtained through means such as force, intimidation, duress, fraud, or from a minor under any circumstance; and
- (J) "Other conduct" - any other conduct that constitutes an offense or a tort under the law of the Navajo Nation.

- (2) Domestic Abuse does not mean a victim's act of self-defense made in reasonable response to an abuser's act of domestic abuse.
- (b) Victim means any of the following persons who have been directly affected by domestic abuse as defined in §1605(a):
- (1) any member or former member of the abuser's household or immediate residence area;
 - (2) any person involved in, or formerly involved in, an intimate relationship with the abuser;
 - (3) any person who interacts with the abuser in an employment, academic, recreational, religious, social or other setting;
 - (4) any offspring of the abuser;
 - (5) any relative or clan member of the abuser;
 - (6) any elderly person; or
 - (7) any vulnerable person. Examples of vulnerability which give rise to the protection of this Act include, but are not limited to, emotional and physical disabilities and impairments.
- (c) Abuser means any person who engages in conduct defined as domestic abuse under §1605(a) against any of the persons defined as victims under §1605(b).
- (d) Protection Order means a court order that restrains the abuser from doing certain acts upon threat of penalty or sanction. Such an order may contain requirements to adjust the relationship of the parties and prevent further abuse. The term includes any emergency, temporary or domestic abuse protection orders issued by the court.

SUBCHAPTER 3. PROTECTION ORDERS

§ 1651 Jurisdiction

(a) Courts

- (1) The Navajo Nation Family Courts shall have jurisdiction over all proceedings under this chapter, except those proceedings initiated under §1663(a).
- (2) A protection order may be sought as an independent civil action, or joined with any other civil action over which the Family Courts have jurisdiction.
- (3) Any person within the territorial jurisdiction of the Navajo Nation may seek remedies for protection within such jurisdiction, regardless of where the abuse occurred. The court may provide remedies to protect victims within the Navajo Nation and to prevent future conduct.
- (4) Acts of domestic abuse which violate an existing Navajo Nation court order but which occur beyond the territorial jurisdiction of the Navajo Nation remain subject to the jurisdiction of the court.
- (5) Provisions of this Act which call for criminal penalties apply only to those persons over which the Navajo Nation has criminal jurisdiction.

(b) Venue

A petition for a protection order may be filed in any district in which:

- (1) the petitioner resides,
- (2) the respondent resides,
- (3) the alleged abuse occurred, or
- (4) the victim is temporarily located.

(c) Non-exclusive relief

- (1) The remedies and procedures provided in this Act are in addition to, and not in lieu of, any other available civil or criminal remedies. A petitioner shall not be barred from relief under this Act because of other pending proceedings or existing judgments.

- (2) Relief shall be available under this Act without regard to whether the petitioner has initiated divorce proceedings or sought other legal remedies.
- (3) As to domestic relations proceedings, if custody or support have already been adjudicated, the terms of a previous court order may be incorporated into a protection order. Custody or visitation arrangements specified in an existing order may be modified in a protection order upon a showing of changed circumstances and for the purpose of preventing further domestic abuse.

§ 1652 Peacemaker Court

The Supreme Court of the Navajo Nation may allocate authority to the Navajo Peacemaker Court to provide for remedies to address domestic abuse, as defined in 9 N.T.C. §1605(a). The following conditions shall apply to any grant of authority made to the Navajo Peacemaker Court under the Act:

- (a) The victim shall be given the option of having her or his petition heard by a qualified peacemaker or by the Family Court. If the victim consents to go before a peacemaker, any such consent shall be in writing, read to the victim in her or his primary language, and signed by the victim.
- (b) The written consent shall also advise the victim that, if at any time during the proceeding the victim expresses the desire to have the petition heard by a Navajo Nation Family Court, the proceeding shall be removed to the Family Court;
- (c) Only peacemakers who have received specialized training in their primary language on the causes, symptoms and dynamics of domestic abuse shall be qualified to hear domestic abuse cases.

§ 1653 Who may file a petition

A person may seek a protection order:

- (a) for herself or himself;
- (b) on behalf of a minor child;
- (c) on behalf of any person prevented by a physical or mental incapacity, or by hospitalization, from seeking a

protection order;

- (d) on behalf of a client in the case of social service, housing, health, legal or law enforcement personnel; or
- (e) as a next friend of a victim.

§ 1654 Standard of proof, defenses

- (a) The civil standard of proof shall apply to proceedings under this Act, except for proceedings under §1663(a) and §1663(b)(3). A 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 has occurred or is about to occur. The order's purpose shall be to prevent the occurrence or recurrence of abuse.
- (b) A petitioner shall not be denied relief under this Act because:
 - (1) the petitioner used reasonable force in self defense against the respondent;
 - (2) the petitioner has previously filed for a protection 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) The following shall not be considered a defense in a proceeding for the issuance or enforcement of a protection order under this Act:
 - (1) intoxication;
 - (2) spousal immunity; or
 - (3) provocation.

§ 1655 Temporary protection orders, ex parte

- (a) Petition, Motion and Order.
 - (1) Upon the filing of a Petition for Domestic Abuse Protection Order and Motion for Temporary Protection Order the court shall immediately grant or deny the petitioner's Motion for Temporary Protection Order without a hearing or notice to the respondent. The court shall grant the motion if it determines that an emergency exists.

- (A) A petitioner shall demonstrate an emergency by showing that:
- (i) The respondent recently committed acts of domestic abuse resulting in physical or emotional injury to the petitioner or another victim, or damage to property; or
 - (ii) The petitioner or another victim is likely to suffer harm if the respondent is given notice before the issuance of a protection order.
- (B) Evidence proving an emergency situation may be based on the petition and motion, police reports, affidavits, medical records, other written submissions, or the victim's statement.
- (C) The Temporary Protection Order may include any relief permitted by §1660(b) of this Act and any other relief necessary to prevent further domestic abuse.
- (D) The Temporary Protection Order shall direct the respondent to appear at a hearing to show cause why the court should not issue a Domestic Abuse Protection Order.
- (E) Upon issuing the Temporary Protection Order, the court shall immediately provide for notice to the respondent and notify law enforcement of the order under §1661 of this Act.
- (2) If the court finds that an emergency does not exist, the court shall deny the petitioner's Motion for a Temporary Protection Order and schedule a hearing on the Petition for Domestic Abuse Protection Order.
- (A) The court shall schedule the hearing within fifteen (15) days of the petition's filing.
 - (B) The court shall provide for notice to the Respondent according to §1661(a)(1) of this Act.
- (3) The court shall give a Motion for Temporary Protection Order priority over all other docketed matters and shall

issue an order granting or denying the motion on the day it is filed.

(b) **Hearing, Domestic Abuse Protection Order.**

(1) The court shall schedule a full hearing within fifteen (15) days after granting or denying a Temporary Protection Order.

(A) The respondent may move the court to dissolve or modify any Temporary Protection Order within those fifteen (15) days.

(B) The respondent must give at least five (5) days notice of the motion to the petitioner. The court shall give priority to such motions.

(2) If the petitioner fails to appear at the hearing, the court may continue the hearing for up to fifteen (15) days, or dismiss the petition without prejudice. Any Temporary Protection Order shall remain in effect during the continuance.

(3) If the respondent fails to appear after receiving notice, the hearing shall go forward.

(4) If, after a hearing, the court finds by a preponderance of the evidence that the alleged domestic abuse occurred, the court shall issue a Domestic Abuse Protection Order. The order may include the relief granted in any Temporary Protection Order and any additional relief that the court deems necessary.

(5) No Domestic Abuse Protection Order shall be issued without notice to the respondent and a hearing.

§ 1656 Telephonic or facsimile applications and orders

An official of the Office of the Prosecutor, of a Navajo Nation Chapter, or an officer of the Navajo Nation Police may apply for an Emergency Protection Order by telephone or facsimile ("fax").

(a) The official or officer shall fill out an Application for Emergency Protection Order, specifying his or her reasonable grounds to believe that a victim is in immediate and present

danger of domestic abuse.

- (b) The official or officer shall then contact a judge of the Navajo Nation courts by telephone or fax.
- (c) Any Navajo Nation Family Court judge may receive and act upon such applications.
- (d) A judge may issue an Emergency Protection Order by telephone or fax upon finding that:
 - (1) a reasonable person would believe that an immediate and present danger of domestic abuse exists; and
 - (2) an Emergency Protection Order is necessary to prevent the occurrence or recurrence of domestic abuse.
- (e) The Emergency Protection Order may include any relief permitted by §1660(b) of this Act and any other relief necessary to prevent further domestic abuse.
- (f) The official or officer shall record the order on an Emergency Protection Order form and, by his or her signature, certify that the writing is a verbatim transcription of the judge's order. The certification of any such official or officer shall be *prima facie* evidence of the validity of the order.
- (g) The official or officer shall then give a copy of the order to the protected party, and serve a copy of the order on the restrained person.
- (h) The originals of the Application and Emergency Protection Order shall be filed with the court no later than 9 a.m. the next court day.
- (i) The Emergency Protection Order shall expire no later than the close of judicial business the next court day after its issuance, unless the issuing judge indicates otherwise.

§ 1657 Pro se petitioners

- (a) A victim of domestic abuse may petition the court for protection without the assistance of legal counsel.
- (b) The petition and any accompanying documents may be handwritten or typed.
- (c) The following agencies shall keep and make available standard forms approved by the Navajo Nation courts for use in domestic

abuse proceedings:

- (1) Navajo Nation Family and District Courts;
- (2) Navajo Nation Offices of the Prosecutor; and
- (3) Navajo Nation Police Departments.

(d) The above-named agencies shall:

- (1) provide information concerning:
 - (A) the availability of protection orders;
 - (B) procedures for obtaining protection orders;
 - (C) how to proceed without legal representation; and
 - (D) the right of the petitioner to have her or his place of residence remain secret;
- (2) prohibit non-legal staff from rendering advice or services that call for the professional judgment of a lawyer or advocate;
- (3) provide timely, free assistance to victims of domestic abuse in filing for protective relief;
- (4) train their employees to aid victims of domestic abuse in filling out the necessary forms;
- (5) keep the addresses of victims confidential; and
- (6) keep a record of each case in which they assist a victim in filing for a protection order. The record shall include the following information:
 - (A) a copy of the papers filed with the court;
 - (B) names, genders and relationship of the parties;
 - (C) a description of the domestic abuse, any weapons involved and any resulting injuries;
 - (D) dates of the domestic abuse and dates of filing for protective relief; and
 - (E) the source(s) of all information obtained.

(e) The above-named agencies shall make the standard forms available to other community organizations which may interact with victims such as shelters, chapters, schools, hospitals, and offices of the Navajo Housing Authority.

§ 1658 Confidentiality

A petitioner seeking protection shall not be required to

reveal her or his address or place of residence except to the judge, in chambers, for the purpose of determining jurisdiction and venue.

§ 1659 Evidence, Hearsay exception

A court shall admit into evidence as an exception to the hearsay rule learned treatises or other reliable materials which describe and explain the "battered women's syndrome" or otherwise examine the impact of violence upon victims.

§ 1660 Available relief

- (a) In any proceeding in which a petition for a protection order is filed, once the petitioner has met the burden of proof, the court shall grant any relief necessary to prevent further abuse. Available relief includes but is not limited to the following:
- (1) No further abuse. The court may order the respondent to refrain from further threatening, harassing, or harming the victim or committing any act of domestic abuse;
 - (2) Exclusive possession. The court may grant exclusive possession of the residence or household to the victim regardless of whether the residence is owned jointly, or owned solely by the abuser. The court may order the respondent to vacate the residence;
 - (3) Stay away. The court may order the respondent:
 - (A) to stay away from the victim and others who may be endangered;
 - (B) not to enter or linger outside of petitioner's or any family or clan member's residence, place of work, or school; or
 - (C) to leave and remain away from any reasonably-defined geographic area;
 - (4) No contact. The court may order the respondent not to initiate contact with the petitioner in person, in writing, by phone or through others unless otherwise specified by the court;
 - (5) Rent and mortgage payments. The court may order the

- respondent to pay rent or make mortgage payments on a residence occupied by the petitioner if the respondent is found to have a duty to support the victim or other members of the household;
- (6) Alternative housing. The court may order the respondent to pay for shelter or temporary housing for the victim if the victim cannot remain in her or his home due to the danger of recurrence of domestic abuse;
- (7) Child custody.
- (A) The court may award either party immediate, temporary custody of any minor children of the parties until further order of the court, or the court may enter a permanent custody order;
- (B) In determining custody, the court shall presume that an abusive parent is unfit to have custody of the minor children. The respondent may rebut the presumption by showing that he or she is not abusive of the children and that his or her abuse of others does not adversely affect the children;
- (8) Visitation. The court may grant the non-custodial parent visitation with any minor children of the parties.
- (A) If disclosing the victim's address for purposes of visitation may endanger the victim, the court may order alternative arrangements. Example: The petitioner drops the children off and the respondent picks them up at a pre-arranged neutral place such as a relative's home;
- (B) If there is evidence that the abuser may endanger the children, the court may order supervised visitation in a public location or may deny visitation entirely;
- (9) Payment of support. The court may order the non-custodial parent to pay child support if that parent is found to have a duty to pay such support;
- (10) Monetary compensation. The court may order the

- respondent to compensate the petitioner for the losses suffered as a direct result of the respondent's acts of domestic abuse, including, but not limited to, medical expenses, loss of earnings or other income, cost of repair or replacement of real or personal property, moving or other travel expenses, and attorney's fees;
- (11) Possession of personal property. The court may order the respondent to give temporary possession of personal property to the petitioner or victim including automobiles, checkbooks, keys, documents and other personal property;
 - (12) Nondisposition of property. The court may order either party or both parties not to transfer, encumber or otherwise dispose of specified property mutually owned or leased by the parties;
 - (13) Counseling. The court may order either or both parties to attend any counseling which the court finds will address the problems underlying the parties' domestic abuse;
 - (14) Substance abuse counseling. If the court finds that substance abuse was a factor in the domestic abuse, the court may order either or both parties to attend counseling or enter a rehabilitation program for substance abuse;
 - (15) Payment of costs of counseling. The court may order the respondent to pay for the costs of any counseling ordered under §§1660(a)(13), (14);
 - (16) Law enforcement supervision of return to residence. The court may order the police to accompany the victim to a residence to collect her or his personal belongings, to take physical custody of the children, and/or to take physical possession of the residence;
 - (17) Court costs and fees. The court may order the respondent to pay to the court the costs of the proceeding, including filing fees, fees for service of process, and

photocopy costs.

(18) Security or bond. To assure compliance with any court order, the court may require the respondent to post a bond, deposit money with the court, or pledge property as security. Upon determining that the respondent has violated the order, the court may require payment or transfer of the bond, money or property to the petitioner or to the Navajo Nation.

(19) Other relief. The court may grant such other relief as it deems necessary.

(b) *Ex parte* relief. Any Emergency Protection Order or Temporary Protection Order granted without a hearing may include the following relief described above: (1) No further abuse; (2) Exclusive possession; (3) Stay Away; (4) No contact; (7) Immediate temporary custody; (11) Possession of personal property; (12) Nondisposition of property; (16) Law enforcement supervision of return to residence; (19) Other relief.

§ 1661 Service of process

(a) Upon entering a protection order under this Act, the court shall immediately:

(1) Provide for notice to the respondent.

(A) The court clerk shall hand-deliver any protection order, petition, motion, summons, notice of hearing, or other documents filed with the court, to the proper person(s) for service upon the respondent.

(B) Any officer of the Navajo Police, court official, member of the Office of the Prosecutor or court-appointed process server may serve process within the Navajo Nation in a proceeding under this Act.

(C) Service outside of the Navajo Nation shall be completed according to Rule 4(e)(2) of the Navajo Rules of Civil Procedure.

(D) If personal service cannot be made, the court may

serve the respondent by certified mail, return receipt requested. The return receipt, when received by the court, shall constitute prima facie evidence that the respondent received notice of the proceedings.

- (2) Notify law enforcement. The Court clerk shall provide a copy of the protection order to the police department(s) with jurisdiction over the residence of the petitioner, and over any other addresses listed in the order.
- (b) The Navajo Nation Police Department shall:
- (1) Upon receipt of documents pursuant to §1661(a)(1); personally serve the documents upon the respondent immediately. Service of protection orders shall take priority over all routine police business.
 - (2) Upon receipt of a protection order pursuant to §1661(a)(2); file the order in a protection order registry. Each Navajo Nation Police Department shall maintain a registry of all protection orders. The orders shall be indexed by the names of both the petitioner and the respondent.

§ 1662 Duration of protection orders

- (a) A protection order shall be effective upon the respondent as soon as he or she has knowledge of the order. Verbal communication of the existence of a protection order shall constitute sufficient notice.
- (b) A Temporary Protection Order shall remain in effect until the Court holds a hearing and issues a Domestic Abuse Protection Order, or until the court dismisses the petition.
- (c) A Domestic Abuse Protection Order shall remain in effect for five (5) years, unless otherwise specified by the judge.
- (d) Renewal, extension or modification of protection orders.
 - (1) The petitioner may petition the court to renew or extend a protection order at any time before its expiration. In an emergency, the court may issue an extension or renewal ex parte pursuant to the provisions for ex parte relief

set forth in §1655 of this Act.

- (2) The court may modify a protection order upon a showing by either party of unanticipated problems or changed circumstances.

§ 1663 Violation of protection orders

(a) Criminal violations.

- (1) If, after receiving notice of a protection order, the respondent disobeys the order, he or she commits the offense of interfering with judicial proceedings. The court may refer such violations to the Office of the Prosecutor for prosecution.
- (2) A police officer with knowledge of the violation shall immediately arrest the respondent if there exists probable cause to believe that he or she has violated a protection order. The respondent shall be arrested whether or not such violation occurred in the presence of the officer. The violation shall then be referred the Office of the Prosecutor for prosecution.
- (3) The respondent shall then be criminally prosecuted.

(b) Contempt of court, forfeiture of bond, money or property.

- (1) Any person who has reason to believe that the respondent has violated a protection order or has refused to carry out a judgment, order or condition imposed by the court may move the court for an Order to Show Cause, *pro se*.
- (2) The court shall hold a hearing within fifteen (15) days to determine whether the respondent violated the protection order or refused to carry out any judgment, order or condition.
- (3) If the court finds, beyond a reasonable doubt, that the respondent violated the protection order, the court shall hold the respondent in criminal contempt of court. The court may punish the respondent with imprisonment of up to one hundred eighty (180) days, a fine of up to \$250, or both. Further, the court may require forfeiture of any bond posted, money deposited or property pledged as

security to assure compliance with the order under §1660(a)(18).

- (4) If the court finds, by a preponderance of the evidence, that an individual has refused to carry out a judgment, order, or condition imposed by the court, the court may hold that person in civil contempt of court. To compel the person to carry out the judgment, order, or condition, the court may incarcerate that individual for up to one hundred eighty (180) days, or impose such other penalties as the court deems necessary to compel compliance.

- (c) Hearings on alleged violations of protection orders shall be expedited.

§ 1664 Vacation of protection orders

- (a) A party who wishes to have a protection order vacated must move the court for an order.
- (b) A protection order shall be vacated only by court order.
- (c) In determining whether or not to vacate a protection order, the court shall consider the following factors:
- (1) whether either or both of the parties have attended counseling and for how long;
 - (2) whether the respondent has attended substance abuse counseling and for how long;
 - (3) whether the circumstances have changed so as to remove the danger to the petitioner from the respondent; and
 - (4) any other factors the court deems relevant.
- (d) The court clerk shall provide a copy of any subsequent order to all police departments to whom a copy of the original protection order was delivered under §1661(a)(2).
- (e) All Navajo enforcement agencies shall enforce any protection order that has neither expired nor been vacated, regardless of the current status of the parties' relationship.

§ 1665 Fees; filing, service, copies

The court shall not charge the petitioner any fee for filing, copies, forms, service of process or any other services associated

with petitioning for a protection order. The court may order the respondent to pay costs and fees.

§ 1666 Comity

- (a) Any protection order issued pursuant to this Act shall be effective throughout the Navajo Nation.
- (b) Upon determining that a foreign court had jurisdiction to enter a protection order, a Navajo Nation court may issue an order recognizing that protection order and according it comity. Once recognized, a protection order shall be enforced as if it were an order of a court of the Navajo Nation.

§ 1667 Mutual protection orders

Mutual protection orders shall not be granted unless the respondent files a petition for protection and makes a separate showing of domestic abuse pursuant to this Act.

Sample Forms and Instructions

INSTRUCTIONS FOR FILING A PETITION FOR A PROTECTION ORDER

1. Explanation of Temporary Protection Order and Domestic Abuse Protection Order

The Court can issue a **Temporary Protection Order ex parte** (without notice to the abuser or a hearing) to protect you from immediate danger of harm by the person who is abusing you. If the Court determines that you need immediate protection, you can get a Temporary Protection Order in one day. It will last for up to fifteen days.

Within those fifteen days the Court will hold a hearing to decide whether it should issue a **Domestic Abuse Protection Order**, which is a long-term protection order. The purpose of the hearing is to give you an opportunity to explain why you feel you are in danger and why you think you need the protection order. It will also give the abuser (the person harming you) the chance to show why a protection order should not be granted against him or her.

The hearing is informal, and you may speak for yourself. After the hearing, if the judge thinks you still need protection, you will get a long-term Domestic Abuse Protection Order. This order is good for up to five years.

2. Filling out the petition for a protection order

- a. At the very top fill in the district and state you are filing your petition in. (i.e. Crownpoint, New Mexico)
- b. On the lines at the very top left-hand corner, write your name and address.
- c. On the lines above the word "PETITIONER", fill in your name, census number and address. You are the Petitioner.
- d. On the lines above the word "RESPONDENT", fill in the abuser's name, census number (if you know it) and address. The abuser is the Respondent.
- e. Fill in your name where it says "I, _____".
- f. Answer all questions and fill in all the blanks in the rest of the petition. Describe in as much detail as you can the most recent incident of abuse. Describe what the abuser did to you, your children and/or your property. Then describe threats the abuser has made and how this has made you feel (i.e. terrified, afraid for your life). In the "Requested Relief" section, check off what you want the Court to do for you.

3. Signature

Sign the petition where it says Petitioner, *pro se*. *Pro se* means that you are representing yourself in this action.

4. Verification

You must sign this part in front of a notary public. Do not sign it beforehand. If you do, you will not be able to get it notarized.

5. Service

You must also fill out the Application for Service of Process at the end of the petition. This is very important. The court will serve the Petition and Order on the Respondent which means they will give the Respondent a copy of the Petition and Order. In order for the court to do this they need to know what the Respondent looks like and where the Respondent can be found. Without this information the court cannot serve the Respondent and the protection order will not be effective.

6. Filing the Petition

You must make three copies of the Petition. Take the original and the copies to the court and give them to the court clerk. The clerk will stamp them and give a stamped copy back to you. Keep the copy for your records.

7. The Hearing

The Court will schedule a hearing within fifteen days to decide whether or not you need a long-term protection order.

- a. At the hearing both parties appear and the judge will determine whether to continue the protection order, modify it, or dismiss it.
- b. You may bring witnesses and any other proof of abuse. You may represent yourself or seek the help of an attorney or advocate.
- c. The judge may issue a Domestic Abuse Protection Order effective for up to five years.
- d. If you are requesting that the abuser pay for damages he has caused, you must bring proof of such damages.
- e. If children are involved, be prepared to suggest appropriate visitation. (i.e. when and where the Respondent can visit the children, and who should supervise the visitation). If you feel the children will be harmed or abducted by the Respondent if visitation is allowed, you should make this clear to the judge. The judge may then order supervised visitation or no visitation.
- f. If the judge enters a Domestic Abuse Protection Order

after the hearing, you will get a copy. Keep a copy of the order with you at all times.

8. Violation of a Temporary Protection Order or Domestic Abuse Protection Order

If the Respondent violates a protection order, call the police. Tell the police that you have a protection order and what the Respondent has done to violate the protection order. Then do the following:

- a. Fill out a "Motion for Order to Show Cause" form which may be obtained from the court.
- b. You must sign the form in front of a notary public.
- c. Bring the form to the family court and file it by giving it to the court clerk.
- d. You will be notified when the hearing on the motion will be held. At the hearing you will have the opportunity to show how the Respondent violated the order. Bring witnesses or other proof. (i.e. hospital or police reports, proof of destroyed property, pictures of any cuts, scratches or bruises.) The Respondent will have the opportunity to try to prove that he did not violate the order.

9. Canceling the Protection Order

A protection order will remain in effect until it expires or until the court "vacates" or cancels it. It can ONLY be canceled by court order. If Respondent is in contact with you while the order is still in effect, he or she may be arrested and sent to jail WHETHER OR NOT YOU CONSENTED TO THE CONTACT. To ask the court to cancel the protection order, do the following:

- a. Fill out a "Motion to Vacate" form which may be obtained from the court.
- b. You must sign the form in front of a notary public.
- c. Bring the form to the family court and file it by giving it to the court clerk.
- d. You will be notified when the hearing on the motion will be held. At the hearing you will have the opportunity to show why the order should be canceled. You will need to prove that the Respondent has made efforts to change his or her behavior (i.e. has attended domestic abuse or substance abuse counseling). The Respondent will also have the opportunity to try to prove that he or she should no longer be restrained by the order. The judge will then decide whether or not to cancel the order.

IN THE FAMILY COURT OF THE NAVAJO NATION

JUDICIAL DISTRICT OF _____, _____

_____, C#: _____)
_____)
_____)
_____)
PETITIONER,)
v.)
_____, C#: _____)
_____)
_____)
RESPONDENT.)
_____)

NO: _____

PETITION FOR
DOMESTIC ABUSE
PROTECTION ORDER
AND MOTION FOR
TEMPORARY PROTECTION
ORDER

PETITION FOR DOMESTIC ABUSE PROTECTION ORDER

I, _____, am an enrolled member of the Navajo Tribe residing within the territorial jurisdiction of the Navajo Nation. I request that the Court grant a Domestic Abuse Protection Order based on the following:

1. The Respondent is [] my spouse, [] my ex-spouse, [] my boy/girlfriend, [] a family member, [] other (describe): _____
2. Respondent has committed acts of domestic abuse against me.
 - a. Approximate date most recent abuse occurred: _____
 - b. Description of most recent abuse and any destruction of property _____

c. Description of threats that caused me to fear
that I was going to be hurt _____

d. Respondent has been abusing me for _____
_____ (Write in length of time).

e. In the past, Respondent has committed the
following acts of physical and mental abuse against me (list
approximate dates and describe): _____

f. I have suffered emotional and physical injuries
as a result of Respondent's violence (Describe injuries): _____

3. Respondent and I have been involved in the following court cases (Check all that apply, list date(s), any resulting court orders, and explain):

Criminal Prosecution: _____

Divorce: _____

Other petition(s) for protection from abuse: _____

Custody: _____

Other: _____

4. Respondent and I are the parents of the following children (list names, census numbers, and dates of birth or attach copy of family card): _____

The children are currently in my Respondent's physical custody.

5. I am the parent of the following children, who are not Respondent's children: _____

6. Respondent [] has [] has not abused the above children (describe any child abuse): _____

7. I have suffered emotional and physical injuries as a result of Respondent's abuse. Unless Respondent is restrained, such abuse will continue.

MOTION FOR TEMPORARY PROTECTION ORDER

[] I also need a Temporary Protection Order to protect me until a hearing can be held on my petition. I fear that if Respondent finds out about this court case, Respondent will get angry and further injure me before the Court can issue a Domestic Abuse Protection Order.

[] I do not need a Temporary Protection Order.

REQUESTED RELIEF

I REQUEST THAT THE COURT DO THE FOLLOWING (Check blanks):

- [] 1. Order Respondent not to abuse, harass, or threaten me, or commit any other domestic abuse.
- [] 2. Order Respondent to immediately leave my residence.
- [] 3. Order Respondent to stay at least 100 yards from the following places (DO NOT LIST ANY ADDRESS IF REVEALING IT WOULD FURTHER ENDANGER YOU):

[] My residence: _____

[] My place of employment: _____

[] School attended by me or my children: _____

[] Other place(s): _____

[] 4. Order Respondent not to contact me in person, in writing, or by telephone.

[] 5. Award me temporary custody of our children and order Respondent not to have contact with them until a court hearing.

[] 6. After a hearing, allow Respondent to visit with the children only on the following day(s) of the week:

at the following place(s) _____

and time(s) _____

under the supervision of the following person(s) _____

[] 7. Order Respondent to pay \$_____ per month/pay period (circle one) for the support of our minor children.

[] 8. Order Respondent to compensate me for the following expenses, incurred as a result of the abuse:

Lost earnings: \$_____

Property taken or damaged: \$ _____

Travel expenses \$ _____

Other _____: \$ _____

[] 9. Order Respondent to return to me the following items of my property (example: vehicle, clothing, identification documents): _____

[] 10. Order Respondent not to sell, remove, hide, destroy or damage any property owned by me or by the two of us jointly.

[] 11. Direct a police officer to accompany me to a residence occupied by the Respondent to:
[] obtain physical custody of the children;
[] collect my personal belongings;
[] require Respondent to leave the residence.

[] 12. Order Respondent to attend alcohol/domestic abuse (circle one or both) counseling.

[] 13. Other relief, as follows: _____

Date: _____

PETITIONER, Pro se

Witness

APPLICATION FOR SERVICE OF PROCESS

PETITIONER

Your name: _____

Mailing address: _____

Residence location _____

Phone: Home _____ Work _____

Any other information needed for the court to reach you: _____

RESPONDENT

Description and address of Respondent (the abuser):

Name: _____

Mailing address: _____

Residence location (draw map and attach, if necessary): _____

Describe the Respondent's appearance: Height _____, Weight

_____, Any identifying marks _____

IN THE FAMILY COURT OF THE NAVAJO NATION

JUDICIAL DISTRICT OF _____, _____

_____, Cf: _____)
 _____)
 _____)
 PETITIONER,)
 v.)
 _____, Cf: _____)
 _____)
 _____)
 RESPONDENT.)
 _____)

NO: _____

TEMPORARY PROTECTION ORDER AND ORDER TO SHOW CAUSE

THIS COURT has reviewed the Petition for Domestic Abuse Protection Order and Motion for Temporary Protection Order in this case. The Court finds that there is good cause to believe that Petitioner and/or others are in imminent danger of harm from Respondent. To prevent further harm a Temporary Protection Order should issue without notice to Respondent.

THEREFORE, THIS COURT ORDERS AS FOLLOWS:

- [] 1. Respondent shall not abuse, harass, or threaten the Petitioner, or commit any other domestic abuse.
- [] 2. Respondent shall immediately leave Petitioner's residence.
- [] 3. Respondent shall stay at least 100 yards away from the following places (DO NOT LIST ANY ADDRESS WHICH WOULD FURTHER ENDANGER THE PETITIONER):

[] Residence: _____

Place of employment: _____

School attended by Petitioner or Petitioner's children: _____

Other place(s): _____

4. Respondent shall not contact the Petitioner, in person, in writing, or by telephone.

5. Until a hearing is held in this matter, Petitioner shall have temporary custody of the following minor children: _____

6. Respondent shall return to Petitioner the following items: _____

7. Respondent shall not sell, remove, hide, destroy or damage any property owned by Petitioner or by both parties jointly.

8. An officer of the Navajo Nation Police shall accompany Petitioner to a residence occupied by the Respondent to:

obtain physical custody of the children listed in paragraph 5 above,

[] collect personal belongings listed in paragraph 6 above;

[] ensure that Respondent leaves the parties' residence located at: _____

[] 9. Other relief, as follows: _____

WARNING

THIS IS AN OFFICIAL COURT ORDER. IF YOU VIOLATE THIS ORDER THE COURT MAY FIND YOU IN CONTEMPT OF COURT. YOU MAY ALSO BE ARRESTED AND PROSECUTED FOR THE CRIME OF INTERFERING WITH JUDICIAL PROCEEDINGS AND ANY OTHER CRIME YOU MAY HAVE COMMITTED IN DISOBEYING THIS ORDER.

IT IS FURTHER ORDERED that Respondent, _____, must appear before this Court on the _____ day of _____, 19 ____, at ____:____.m., to show cause why this protection order should not continue in full force.

SO ORDERED THIS _____ day of _____, 19 ____, at the hour of ____:____.m.

JUDGE, Family Court of the Navajo Nation

I hereby certify that I personally served a true copy of the foregoing on the Respondent this ____ day of _____, 19__.

NAME

IN THE FAMILY COURT OF THE NAVAJO NATION

JUDICIAL DISTRICT OF _____, _____

_____, C#: _____

NO: _____

PETITIONER,

**DOMESTIC ABUSE
PROTECTION ORDER**

v.

_____, C#: _____

RESPONDENT.

THIS COURT, having read the Petition For Domestic Abuse Protection Order, and having determined that Respondent received proper and timely notice of the hearing, heard this matter on the ____ day of _____, 19____. This Court finds that Petitioner has proven the allegations of domestic abuse by a preponderance of the evidence.

THEREFORE, THIS COURT ORDERS AS FOLLOWS:

- [] 1. Respondent shall not abuse, harass, or threaten the Petitioner, or commit any other domestic abuse;
- [] 2. Respondent shall immediately leave Petitioner's residence;
- [] 3. Respondent shall stay at least 100 yards away from the following places (DO NOT LIST ANY ADDRESS WHICH WOULD FURTHER ENDANGER THE PETITIONER):

[] Residence: _____

[] Place of employment: _____

[] School attended by Petitioner or Petitioner's
children: _____

[] Other place(s): _____

[] 4. Respondent shall not contact Petitioner, in person,
in writing, or by telephone.

[] 5. Petitioner shall have custody of the following
minor children: _____

[] 6. Respondent shall be permitted to visit with the
children only on the following day(s) _____

at the following place(s) _____

and time(s) _____

under the supervision of the following person(s):

[] 7. Respondent shall pay to Petitioner the following
amount for the support of their minor children:

\$ _____ per _____;

these payments shall be made as follows: _____

8. Respondent shall return to Petitioner the following items: _____

9. Respondent shall not sell, remove, hide, destroy or damage any property owned by Petitioner or by both parties jointly.

10. An officer of the Navajo Nation Police shall accompany Petitioner to a residence occupied by the Respondent to:

obtain physical custody of the children listed in paragraph 5 above;

collect personal belongings listed in paragraph 8 above;

ensure that Respondent leaves the parties' residence located at: _____

11. Respondent shall pay to Petitioner the following amounts, as compensation for expenses incurred as a result of the abuse:

Lost earnings: \$ _____

Property taken or damaged: \$ _____

Travel expenses: \$ _____

Other _____: \$ _____

- [] 12. Respondent shall participate in domestic abuse counseling at _____ for _____ weeks/months.
- [] 13. Petitioner shall participate in domestic abuse counseling at _____ for _____ weeks/months.
- [] 14. Respondent shall participate in alcohol counseling at _____ for _____ weeks/months.
- [] 15. Respondent shall pay to this Court the costs of this proceeding, \$ _____, in a money order made out to: _____
- [] 16. Other relief, as follows: _____

This order shall be effective for _____ years _____ months from the date of its entry.

IT IS SO ORDERED AND ADJUDICATED THIS _____ day of _____, 19____, at the hour of _____ o'clock ____ .m.

 JUDGE, Family Court of the Navajo Nation

I hereby certify that I personally served a true copy of the foregoing on the Respondent this _____ day of _____, 19____.

 NAME

IN THE FAMILY COURT OF THE NAVAJO NATION

JUDICIAL DISTRICT OF _____, _____

_____, C#: _____

PETITIONER,

v.

_____, C#: _____

RESPONDENT.

NO: _____

**MOTION FOR ORDER TO
SHOW CAUSE**

COMES NOW PETITIONER, _____, and
moves the Court for an Order requiring Respondent, _____
_____, to show cause why he/she should not be
held in contempt for violating the Protection Order entered on the
_____ day of _____, 19___. As grounds for this
Motion, Petitioner states that Respondent violated the Protection
Order in the following manner (describe how Respondent violated the
order. Refer to specific paragraph numbers in the order, and then
state what Respondent did to violate that part of the order, and
the date(s) and time(s) of the violation(s)): _____

Respondent may be served at (describe where he or she may be found and attach a map if necessary): _____

WHEREFORE Petitioner, _____, asks this Court for an Order requiring Respondent, _____ to show cause why this Court should not hold him or her in contempt.

Respectfully submitted,

(Your signature)

Witness

IN THE FAMILY COURT OF THE NAVAJO NATION

JUDICIAL DISTRICT OF _____, _____

_____, C#: _____

PETITIONER,

v.

_____, C#: _____

RESPONDENT.

NO: _____

ORDER TO
SHOW CAUSE

TO: _____

YOU ARE ORDERED TO APPEAR before this Court on the _____ day of _____, 19____, at the hour of ____:____.m. to show cause why you should not be held in contempt of court for violating the protection order entered against you on the _____ day of _____, 19____. Petitioner has set forth the alleged violation(s) in the Motion to Show Cause served upon you with this Order.

DATED this _____ day of _____, 19____, at the hour of ____:____.m.

JUDGE, Family Court of the Navajo Nation

I hereby certify that I personally served a true copy of the foregoing on the Respondent this _____ day of _____, 19____.

NAME

IN THE FAMILY COURT OF THE NAVAJO NATION

JUDICIAL DISTRICT OF _____, _____

_____, C#: _____

PETITIONER,

v.

_____, C#: _____

RESPONDENT.

NO: _____

**MOTION TO VACATE
PROTECTION ORDER**

COMES NOW PETITIONER, _____, and
moves the Court to vacate the protection order entered on the
_____ day of _____, 19___. As grounds for this
Motion, Petitioner states that the circumstances that caused her or
him to request a protection order have changed in the following
manner (describe why you no longer need the order):

[] Respondent completed domestic abuse counseling at
_____ on (list dates) _____

[] Respondent completed substance abuse counseling at
_____ on (list dates) _____

[] Other _____

THEREFORE, I no longer feel that I need protection from Respondent and request that the Court vacate the protection order entered against Respondent.

Respectfully submitted,

Petitioner

Witness

IN THE FAMILY COURT OF THE NAVAJO NATION

JUDICIAL DISTRICT OF _____, _____

| | | |
|-------------------|---|--------------|
| _____ , C#: _____ |) | NO: _____ |
| _____ |) | |
| _____ |) | |
| |) | ORDER |
| PETITIONER, |) | |
| |) | |
| v. |) | |
| |) | |
| _____ , C#: _____ |) | |
| _____ |) | |
| _____ |) | |
| |) | |
| RESPONDENT. |) | |
| _____ |) | |

THIS COURT, having considered Petitioner's Motion to Vacate Protection Order entered by this Court on the ____ day of _____, 19____, and having heard the parties' arguments as to why the Court should vacate the order, hereby ORDERS that Petitioner's motion is _____ GRANTED / _____ DENIED.

JUDGE, Family Court of the Navajo Nation

APPLICATION FOR EMERGENCY PROTECTION ORDER

1. (Name): _____ has provided the following information:

a. PERSON(S) TO BE PROTECTED _____

b. PERSON TO BE RESTRAINED _____

Sex: M F Ht: _____ Wt: _____ Hair Color: _____

Eye Color: _____ Age: _____ Scars/Marks: _____

c. The person to be restrained is related to the person to be protected as a [] spouse/ex-spouse, [] boy/girlfriend, [] family member, [] other: _____

d. The events that caused the protected person to fear immediate and present danger of domestic abuse are (Give facts and dates. Specify any threats): _____

e. [] The person to be protected lives with the person to be restrained and requests an order that the restrained person move out immediately from the following residence: _____

f. [] The person to be protected has minor children in common with the person to be restrained and requests that s/he be granted temporary custody over those children because of the facts alleged in item 1(d). *No custody order currently exists.*

2. [] The person to be restrained will be arrested and taken into custody.

3. A phone call was made to (name of judge): _____, on (date): _____ at (time): _____

[] The above judge granted the Emergency Protection Order that follows.

BY: _____ >> _____
(Print name of officer) (Signature of officer)
Agency: _____ Telephone No. _____ Badge No. _____

EMERGENCY PROTECTION ORDER

1. This **EMERGENCY PROTECTION ORDER** will expire at 5:00 p.m. on (insert date of next court day) _____.
2. A more permanent protection order must be requested at a Navajo Nation Family Court.
3. Reasonable grounds appear that an immediate danger of domestic abuse exists and that this order should be issued against:
(Name): _____
 - a. who must not abuse, harass, threaten, or commit any other acts of domestic abuse against (Person to be protected): _____
 - b. who must move out immediately from (residence): _____
 - c. who must stay at least 100 yards away from the above person and place.
4. (Person to be protected): _____
is given temporary custody of the following minor children (names, census numbers, dates of birth): _____

I hereby certify that (Name of Judge): _____
transmitted the above Emergency Protection Order to me by
telephone/facsimile (circle one) this _____ day of _____
, 19____, at the hour of _____:_____.m.

BY: _____ >> _____
(Print name of officer) (Signature of officer)

WARNING

THIS IS AN OFFICIAL COURT ORDER. IF YOU VIOLATE THIS ORDER THE COURT MAY FIND YOU IN CONTEMPT OF COURT. YOU MAY ALSO BE ARRESTED AND PROSECUTED FOR THE CRIME OF INTERFERING WITH JUDICIAL PROCEEDINGS AND ANY OTHER CRIME YOU MAY HAVE COMMITTED IN DISOBEYING THIS ORDER.