

DV FAQ

Frequently Asked Questions: Domestic Violence



Meskwaki Tribal Court

Sac & Fox of the Mississippi in Iowa
Tribal Court

Meskwaki Justice Center
307 Meskwaki Rd
Tama, IA 52339

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Domestic Violence: Meskwaki Tribal Code Title 24

1. *What is Domestic Abuse?*

Domestic abuse, also called domestic violence, occurs when certain offenses are committed against another in a qualifying domestic relationship, whether or not the person alleged to have committed domestic violence has been arrested, charged, or convicted.

2. *What is a “qualifying domestic relationship”?*

At the time of the assault, abuse or threat of abuse, the relationship must be able to be described as being at least one of the following:

- Married
- Living together
- Separated
- Lived together within one year of the assault, but not at the time of the assault/abuse/threat of abuse
- Divorced
- Intimate relationship
- Adult relative living together
- Parents of the same minor child(ren)
- Have been in an intimate relationship and have had contact within one year of the assault/abuse/threat of abuse

3. What types of offenses can qualify as domestic violence?

- Assault- Physical and/or Sexual
- Battery
- Harassment
- Stalking
- Telephone or electronic communication - used to terrify, intimidate, threaten, harass, annoy or offend.
- Abuse of a vulnerable adult
- Intimidation
- All other offenses set forth in Title 13, Chapters 6, 7, 8, 9, 19, and 12

4. Who can I talk to about Domestic Violence?

To report an **emergency situation, always call 911!**

You may also contact RISE (Resources for Indigenous Survivors & Empowerment) at phone # (641) 484-4444 or go see them at the Meskwaki Family Services Building at the Tribe's South Farm property. If needing immediate assistance, please contact a counselor at the Tribe's Crisis Line: (641) 481-0334.

You may also contact an attorney that you have privately retained. See "**#16. What if I do not understand how to do this?**"

5. What help can I get?

You can ask the Court to help protect you and Order the person who assaulted/threatened to abuse/abused you to:

- Stop the abuse
- Not contact you in any way, including in-person, by phone, writing, through social media, or by another person
- Stay away from your home or the family home
- Stay away from your place of employment, school, or other specifically designated location
- Prohibit the Defendant from possessing or purchasing a firearm for the duration of the Order
- Grant other relief as necessary

15. What if I need to change something in the Protective Order?

You **must** tell the Court what needs to be changed. This can be done by filing a "Request to Cancel/Modify/Extend" that can be found on the Meskwaki Court website, or picked up at the Tribal Courthouse. Until a Judge states **in writing** that the Protection Order is dismissed/modified/cancelled it is still in effect.

WARNING: Do not try to influence the person who filed for/obtained the Order to change it. This action could be a violation of the Order.

16. What if I do not understand how to do this?

If you need help with these instructions, you may contact:

- A private attorney
- The Meskwaki Tribal Bar Members list at https://img1.wsimg.com/blobby/go/a1a4fd11-f884-4d95-8763-e75c1d7e1fa8/downloads/839d2eb3-6ea7-4f80-91d2-12a1c0d8afc5/Bar%20Directory_11-26-2024.pdf?ver=1736864339106
- RISE- Resources for Indigenous Survivors & Empowerment
- The Attorney General's Office *may* be able to provide help.
- **Note: The Clerk of Courts Office IS PROHIBITED FROM AND CANNOT give legal advice to any party and CANNOT tell you what to write on Court forms.**

**Important:
Only the Court
can change
a Protective Order**

13. Is a Tribal Court Order of Protection valid when OFF the Settlement?

Yes. Orders of Protection issued by a Judge of Meskwaki Tribal Court are valid on and off the Meskwaki Indian Settlement. The Order is enforceable in every state and on every Indian Reservation in the United States. All final Orders of Protection are entered into a National Database (NCIC).

Remember: Always keep TWO copies of the Protective Order readily available. Typically, in a wallet and/or purse, or in your vehicles glove compartment. This will allow Law Enforcement quicker access to verify the status of the Order.

14. What if the Defendant does not obey the Protective Order?

If the Defendant does not obey the Protective Order, you can:

- Contact Law Enforcement
- Call the Tribe's Crisis Line at (641) 481-0334
- Tell the Court about the violation by filing a "Motion" or "Affidavit" with the Clerk of Court's Office.
- If you need help, see "*What if I do not understand how to do this?*"

6. How do I ask the Court for help?

- To ask the Court for help, prepare a "Petition" and file it with the Tribal Clerk of Court Office
- To prepare a Petition, you can go to <https://meskwakicourt.org/for-the-public>, under **Domestic Abuse or Violence** and download the "*Petition for Protection Order/Restraining Order/Injunction Against Harassment*" form. The form is also available from the Clerk of Court Office at the Tribal Courthouse.
- The form may be filed via drop off, mailing, or email
- There are **no fees** involved in filing a Petition that requests a Civil Order of Protection involving Domestic Violence

7. What do I have to say in the Petition?

You will need to tell the Court the following things in the Petition:

- Name of the Plaintiff
- Name, home address, employer, and employer address of Defendant, if known
- A statement, including dates, location, name of persons involved, and specific details of the alleged domestic violence.
- A description of the relationship between the parties, to include:
 - ⇒ Pending court proceedings between the parties, if any
 - ⇒ Whether parties resided in the same household at the time of the domestic violence
 - ⇒ Whether the parties are now divorced
 - ⇒ Whether the parties are physically separated and living in separate homes but still married
 - ⇒ Whether the parties are parents of the same minor child/ren or expecting a child by the other party
 - ⇒ Whether the parties are persons or family members not residing together at the time of the domestic violence but resided together within **one year** prior to
 - ⇒ Whether parties are in an intimate or dating relationship or have been within **one year** prior to
- The name of any Court in which any prior or pending proceeding or Order was sought or issued concerning any prior domestic violence
- The desired relief

8. What happens when I file my Petition?

After you file your Petition, the Court may enter a “Temporary Protective Order” and schedule a hearing. The Court will also tell Law Enforcement to serve or deliver papers to the Defendant with copies of the:

- Petition you filed
- Temporary Protective Order (if applicable) and information about the Court hearing

The Court hearing should happen within 10 days, if no Temporary Protective Order is issued, if Law Enforcement is able to find and serve the Defendant. If a Temporary Protective Order is issued, the Court hearing should happen within 10 days, if Law Enforcement is able to find and serve the Defendant.

CAUTION: Temporary Protective Orders do not go into effect until the Defendant has received the proper paperwork (copy of petition, a summons, and any Order if issued) from Law Enforcement.

9. Do I have to go to Court?

When you file your Petition, the Court will set a Court hearing date.

All of the petitioning persons must go to the Court hearing. **If the petitioning persons are you, your minor child, and/or the child legally in your care, do not go to the hearing, the Court could cancel your Protective Order or your request for a Protective Order, or could possibly give the Defendant what the Defendant may ask for.**

10. What happens at the Court Hearing?

- You must provide information about the harm, injury, or threats described in the Petition. This information may include medical reports, witnesses, recordings, and photographs.
- The Defendant can also provide information and ask questions about what you have told the Court.
- You can also ask questions about what the Defendant and the Defendant’s witnesses have told the Court.
- After the Court listens to you and the Defendant, the Court will decide if the situation(s) qualify to have a Final Protective Order issued.

- **Note: If you feel unsafe about attending the hearing, please notify the Clerk of Court’s Office to assist with coordinating to have MNPD and/or RISE in attendance. Check in at the Court reception desk as soon as you arrive and you will be placed in a separate waiting room.**

11. What do I do if a Final Protective Order is issued?

You or anyone protected by the Final Protective Order must follow the terms of the Order. For example, if child visitation or custody arrangements are party of the final Order, you must follow those directions.

12. What are Protective Orders and how long do they last?

Protective Orders tell Law Enforcement that the Court has ordered the Defendant to stay away from you and not contact you.

There are two kinds of Protective Orders:

- **Temporary Protective Order-** this Order begins when the Defendant receives it and last until the next Order from the Court. Typically, the next Order is after the hearing takes place.
- **Final Protective Order-** this Order will last for up to 1 year after the Court hearing on the Protective Order. You may get another Order of Protection if you file a “Request to Cancel/Modify/Extend” with the Clerk of Court’s Office **before the original Order expires.** This form is available on our website or to be picked up at the Tribal Court-house.

There are two types of Protective Orders:

- **Domestic Abuse-** this is for people who have a qualifying relationship (as listed in #2, page 1)
- **Restraining-** this does not depend upon the relationship of the parties, but requires telephone or personal contact that is used to seriously terrify, threaten, or intimidate the victim and serve no legitimate purpose.

If neither of the above conditions apply, an Attorney can be privately retained for direction on how to proceed with pursuing a Civil remedy such as seeking an “injunction”.