

## CHAPTER ONE

## GENERAL PROVISIONS

**Section 101. Purpose**

The Sac and Fox Nation of Missouri in Kansas and Nebraska Domestic Violence Code is construed to promote the following:

(a) That violence against family members is not in keeping with traditional Sac & Fox values. It is the expectation that the criminal justice system respond to victims of domestic violence with fairness, compassion, and in a prompt and effective manner. The goal of this code is to provide victims of domestic violence with safety and protection.

(b) It is also the goal to utilize the criminal justice system in setting standards of behavior within the family that are consistent with traditional Sac & Fox values. These consequences are meant as responses that will allow offenders the opportunity to make positive changes in their behavior.

(c) The prevention of future violence in all families through prevention and public education programs that promote cultural teachings and traditional Sac & Fox values so as to nurture non-violence within Sac & Fox families and respect for Sac & Fox women.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 101]

**Section 102. Authority of the Tribe to regulate domestic violence in its jurisdictional territory.**

(a) The Sac and Fox Nation of Missouri in Kansas and Nebraska has the right to exclude non-members as well as an inherent authority to protect its political integrity and provide for the welfare of its members and others who choose to live within its territory.

(b) The problem of domestic violence within the boundaries of the Sac and Fox Nation of Missouri in Kansas and Nebraska is seriously impacting the ability of the tribe to provide for the health and well-being of its tribal members and threatens the political integrity of the tribe.



(c) Domestic violence is also being perpetrated by or against persons who are not members of the Sac and Fox. These activities of non-members and non-Indians, who have entered into consensual relations with tribal members, will be regulated under this ordinance just as the activities of tribal members.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 102]

**Section 103. Definitions.**

(a) Unless the context otherwise requires, as used in the Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Code:

(1) "Domestic violence/abuse" means the occurrence of one or more of the following acts by a family or household member, but does not include acts of self-defense:

(i) Attempting to cause or causing physical harm to another family or household member;

(ii) Placing a family or household member in fear of physical harm; or

(iii) Causing a family or household member to engage involuntarily in sexual activity by force, threat of force, or duress.

(b) "Family or household members" include:

(1) Adults or minors who are current or former spouses;

(2) Adults or minors who are dating or who have dated;

(3) Adults or minors who are engaged in or who have engaged in a sexual relationship;

(4) Adults or minors who are related or formerly related by marriage as recognized by western or Sac & Fox tradition;

(5) Persons who have a child in common; and

(6) Minor children of a person in a relationship that is described in paragraphs (a) through (e) above.

(c) "Domestic violence advocate" means an employee of, or volunteer for, a program for victims of domestic violence and/or sexual assault who:

(1) Has a primary function of rendering advocacy, counseling, or assistance to victims of domestic violence and/or sexual assault (and their children); supervising the employees or volunteers of the program; or administering the program;

(2) Has undergone specialized advocate training; and,

(3) Works under the direction of a supervisor of the program, supervises employees or volunteers, or administers the program.

(d) "Program of intervention for perpetrators" and/or "offender's program" means a specialized program that accepts court orders and voluntary participants that:

(1) Offers intake, orientation, and placement or referral in a domestic violence class;

(2) is accredited or licensed by an appropriate accreditation or licensing entity;

(3) Utilizes historical/cultural information in re-educating perpetrators of domestic violence regarding responsible behavior in the family/community/nation.

(4) Makes available and integrates the specialized function, knowledge and expertise of elders and medicine people.

(e) "Program for victims of domestic violence" means a specialized program for victims of domestic violence and their children that may include advocacy, shelter, crisis intervention, supportive services, referral, and makes available the specialized knowledge and expertise of elders and medicine people.

(f) "Safety plan" means a written or oral outline of actions to be taken by a victim of domestic violence to secure protection and support after making an assessment of the dangerousness of the situation.

(g) "Domestic violence probation officer", for the purposes of this domestic violence code, means a duly authorized probation officer of the Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Court Probation Department, recognized and authorized to monitor and supervise persons placed on probation, parole, or supervised release for a crime of domestic violence.

(h) "Public servant" means any law enforcement officer, dispatcher, detention guard, law enforcement supervisor or administrator, judge, court clerk, prosecutor, court administrator, juvenile presenting officer.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 103]

#### **Section 104. Severability Clause**

If any clause, section or part of this ordinance is declared invalid by the tribal court, such shall not render invalid the remainder thereof, but shall be confined in its operation to the offending section.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 104]

#### **Section 105. Specific Applicability**

The provisions of the chapters herein apply specifically to this domestic violence code and takes precedence over any general laws of applicability.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 105]

## CHAPTER TWO

## CRIMINAL PENALTIES AND PROCEDURES

**Section 201. "Crime involving domestic violence" defined.**

Crimes involving domestic violence as defined in Section 103 are often times already defined under the existing Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Code. The purpose of this ordinance is to clarify that domestic violence is a separate crime punishable separate and apart from the underlying crime, and to acknowledge that when the following crimes are perpetrated against a family or household member, a finding of such shall trigger the application of this ordinance. The crime of Domestic Violence occurs when a family or household member commits one or more of the following offenses against another family or household member:

- (a) Arson, (First Degree or Second Degree);
- (b) Crimes Against Persons (Offenses Under Title 10, Chapter 2;
- (c) Burglary, Breaking and Entering;
- (d) Destruction of Property, Damage, Vandalism of Property
- (e) Homicide Offenses (Murder and Non-negligent Manslaughter, Negligent Manslaughter, and Justifiable Homicide);
- (f) Kidnapping, Abduction;
- (g) Sex Offenses, Forcible (Forcible Rape, Forcible Sodomy, Sexual Assault with an Object, and Forcible Fondling);
- (h) Stolen Property Offenses;
- (i) Weapon Law Violations;
- (j) Disorderly Conduct;
- (k) Family Offenses, Non-Violent (Deprivation of resources, Isolation, Squandering family resources, failure to support dependent persons);
- (l) Stalking;

- (m) Trespass of Real Property;
- (n) Intoxication;
- (o) Habitual or Repeat Domestic Violence Offender status;
- (p) Harassment; and
- (q) Violation of a Protection Order (Section 202).

Committing the above-stated should not diminish the seriousness of domestic violence or take precedence over the crime of domestic violence since the intent of this code is to prevent further acts of domestic violence. The commission of one of the above-referenced crimes against a family or household member shall trigger the application of this ordinance under subsection 205 herein, even if the criminal complaint is also charged as one these separate offenses. The purpose of this code is to differentiate between those crimes committed against non-family and non-household members and those against family and household members as defined in Section 103 which shall be subject to the provisions of this ordinance.

The use of alcohol in the committing of domestic violence or any crime related to domestic violence shall not diminish the seriousness of domestic violence or take precedence over the crime of domestic violence.

The fact that the perpetrator was under the influence at the time of the offense shall not be utilized by law enforcement, prosecution or court to mitigate the severity of the violence. Voluntary intoxication, which is available as a legal defense only in cases involving specific intent crimes, shall not be available as a defense to a perpetrator, nor shall it be utilized to lessen the consequences to the perpetrator

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 201]

**Section 202. Violation of certain orders for protection is a misdemeanor.**

Violation of one of the following orders issued in accordance with the Sac and Fox Domestic Violence Code is a misdemeanor, to be designated and charged as a Violation of Order for Protection:

(a) An order enjoining the respondent from threatening to commit or committing acts of domestic violence against the petitioner or other family or household member;

(b) An order prohibiting the respondent from harassing, annoying, telephoning, contacting, or otherwise communicating verbally or in writing with the petitioner directly or indirectly through family members, relations by marriage, friends, and co-workers;

(c) An order removing and excluding the respondent from the residence of the petitioner;

(d) An order requiring the respondent to stay away from the residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;

(e) An order granting temporary custody and child support regarding children, denying visitation or outlining specific visitation conditions and restrictions, including supervised visitation;

(f) An order prohibiting the respondent from using or possessing a firearm or other weapon as specified by the court and in accordance with Title 18 U.S.C. 922;

(g) An order requiring the respondent to attend a domestic violence intervention program; and

(h) An order requiring the respondent to obey all laws of the Sac and Fox Nation of Missouri in Kansas and Nebraska.

The petitioner who is granted an order for protection cannot violate or be arrested for aiding or abetting a violation of her/his own order for protection. It shall not be a defense to a charge of violation of an order for protection under this section that the victim consented to the violation by encouraging contact or a violation of the order of protection. A violation of an order for protection shall be a criminal violation punishable under tribal, state, or federal law.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 202]

**Section 203. Penalties; enhancement of penalty for second or subsequent crime involving domestic violence.**



When a defendant makes a judicial admission, pleads guilty to, or has been found guilty of a crime involving domestic violence as defined by this code, or violation of an order for protection, the following minimum sentencing provisions shall apply uniformly to all offenders:

(a) First Offense:

(1) Mandatory minimum 30 days in jail, not to exceed 60 days, \$100 fine plus costs, with suspended imposition of sentence dependent upon mandatory successful completion of the Sac and Fox Domestic Violence offender's program and two years supervised domestic violence probation, including all court-ordered and probation department administrative and rehabilitative conditions.

(2) Completion of any sentenced jail time shall not be construed to satisfy, excuse, or negate the requirement of mandatory successful completion of the Sac and Fox Domestic Violence offender's program.

(b) Second Offense:

(1) Mandatory minimum 90 days in jail, not to exceed 120 days, \$250 fine plus costs, successful completion of the Sac and Fox Domestic Violence offender's program and minimum three years supervised domestic violence probation, including all court-ordered and probation department rehabilitative conditions.

(2) Completion of any sentenced jail time shall not be construed to satisfy, excuse, or negate the requirement of mandatory successful completion of the Sac and Fox Domestic Violence offender's program.

(c) Third or Subsequent Offense:

(1) Mandatory minimum 180 days in jail, \$500 fine plus costs, successful completion of the Sac and Fox Domestic Violence offender's program and minimum five years supervised domestic violence probation, including all court-ordered and probation department rehabilitative conditions.

(2) Completion of any sentenced jail time shall not be construed to satisfy, excuse, or negate the requirement

of mandatory successful completion of the Sac and Fox Domestic Violence offender's program or domestic violence probation.

(3) Conviction of a third offense of domestic violence shall require that the court designate for the record that the offender has been designated as a habitual domestic violence offender and subject to the additional provisions of Section 237 of this code.

(d) Any person who makes a judicial admission, pleads guilty to, or has been found guilty of a crime, or subsequent crime, of domestic violence shall be placed on probation with the Sac and Fox Probation Department for a term consistent with the sentencing conditions of this section. The Sac and Fox Probation Department shall have administrative and rehabilitative latitude to set rehabilitative standards and conditions consistent with assisting the offender to attain a non-violent, productive, and alcohol-free/drug-free life path.

(e) Running of sentenced probation under this section shall be consistent with applicable provisions of Title 10 of the Sac and Fox Tribal Code.

(f) The court may enhance the sentencing level for any domestic violence offense but shall not reduce the sentencing level below the minimum prescribed by this section. The court shall consider all aggravating factors such as, but not limited to, use of weapons, level of injury, criminal history, and history of violence, as grounds to enhance any sentence under this section.

This section shall apply to any offense committed after the enactment of this section, but any conviction of a crime of domestic violence committed before enactment of this section may be considered in determining whether the sentence should be enhanced.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 203]

**Section 204. Duties of law enforcement officer to victim of domestic violence; required notice to victim.**

(a) A law enforcement officer who responds to an allegation of domestic violence shall use all reasonable means to protect the victim and others present from further violence and has a duty to arrest upon finding probable cause to believe that domestic violence has occurred. A law enforcement officer need not obtain a search warrant in order to enter a residence where s/he has probable cause to believe a crime of domestic violence is occurring or has just occurred, nor to seize property under this subsection. Such reasonable means include but are not limited to:

(1) Taking any lawful action necessary to provide for the safety of the victim and any family or household member.

(2) Confiscating any weapon involved in the alleged domestic violence.

(3) Transporting or obtaining transportation for the victim and any child(ren) to a shelter or any other place of safety.

(4) Assisting the victim in removing essential personal effects.

(5) Assisting the victim and any child(ren) in obtaining medical treatment, including obtaining transportation to a medical facility.

(6) Giving the victim immediate and adequate notice of the rights of victims and or the remedies and services available to victims of domestic violence.

(7) Enforcing an order for protection.

(b) As part of the notice required by paragraph (6) of subsection (a), the law enforcement officer shall give, in addition to verbal notification, written notice to the adult victim substantially as follows:

"If you are the victim of domestic violence and you believe that law enforcement protection is needed for your physical safety, you have the right to request that the officer assist in

providing for your safety, including asking for an emergency order for protection that will provide for your immediate protection. You may also request that the officer assist you in obtaining your essential personal effects and locating and taking you to a safe place, including but not limited to a shelter, a family member's or friend's residence, or a similar place of safety. If you are in need of medical treatment, you have the right to request that the officer assist you in obtaining medical treatment. You may request a copy of the report at no cost from the law enforcement department.

Please be advised that the prosecutor may choose to file a criminal complaint against your assailant. You also have the right to file a petition requesting a permanent order for protection from domestic violence which could include any of the following orders:

(1) An order enjoining your abuser from threatening to commit or committing further acts of domestic violence;

(2) An order prohibiting your abuser from harassing, annoying, telephoning, contacting or otherwise communicating with you, directly or indirectly through family members, relations by marriage, friends, and co-workers;

(3) An order removing your abuser from the residence regardless of ownership or lessee of record;

(4) An order directing your abuser to stay away from your or any other designated household/family member's place of residence, school, place of employment, or any other specified place frequented by you;

(5) An order prohibiting your abuser from using or possessing any firearm or other weapon specified by the court;

(6) An order granting you possession and use of an automobile and other essential personal effects, regardless of ownership;

(7) An order granting you custody of your child or children;

(8) An order denying your abuser visitation;

(9) An order specifying arrangements for visitation, including requiring supervised visitation; and

(10) An order requiring your abuser to pay certain costs and fees, such as rent or mortgage payments, child support payments, medical expenses, expenses for shelter, court costs, and attorney's fees.

The forms you need to obtain an order for protection are available from the Sac and Fox Department of Social Services, the Sac and Fox Police Department, and/or the clerk of court. The services of the Sac and Fox Domestic Violence Program are available to assist you in obtaining information relating to safety planning, domestic violence, treatment of injuries, community resources, community services, and places of safety and shelter. You also have the right to seek reimbursement for losses suffered as a result of the abuse, including medical and moving expenses, loss of earnings or support, and other expenses for injuries sustained and damage to your property. This can be done through Tribal court."

The written notice:

(1) Must not include the addresses or locations of shelters, and

(2) Must be provided in the native language of the victim, if practicable, when the native language of the victim is not English.

(c) Any law enforcement officer who enforces this section in good faith shall be immune from suit by any person alleging a violation of this subsection or any other section of tribal law.

Section 205. Mandatory arrest for crimes involving domestic violence; determination of predominate aggressor; required report.

(1) A law enforcement officer shall arrest any person, with or without a warrant, whom s/he has probable cause to believe committed any crime involving domestic violence as defined in Section 201, either in the presence of the officer or within 24 hours of a report to law enforcement of the commission of such offense. The officer shall promptly file a report and charge the arrestee with Domestic Assault.

(2) Regardless of the elements of any other crime committed in conjunction with crimes of domestic violence, the crime of Domestic Assault shall be considered a separate and distinct offense and shall be charged in addition to any other crime.

(3) If a law enforcement officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine who was the predominate aggressor. If the officer determines that one person was the predominate aggressor, the officer need not arrest the other person alleged to have committed domestic violence. In determining whether a person is the predominate aggressor, the officer shall consider:

(i) The history of domestic violence, both documented prior complaints and convictions and the law enforcement officer's own prior knowledge of the family;

(ii) The relative severity of the injuries inflicted on each person, i.e., who in this relationship poses the most danger to the other;

(iii) The likelihood of future injury to each person, i.e., who is at the most risk of future harm;

(iv) Whether one of the persons acted in self-defense and/or in defense of others; and

(v) The degree to which one of the persons has acted with more deliberate intent to control, isolate, intimidate, emotionally demean, cause injury or pain or fear of harm to the other person or to a third party.

(d) A law enforcement officer shall not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage requests for intervention by any party.

(e) A law enforcement officer shall not consider the use or abuse of alcohol or other substances by either party in making a determination as to whether or not domestic violence has been committed.

(f) The employment, economic, educational, social, physical and/or mental health and political status of the alleged perpetrator and/or victim shall not be considered in making an arrest.

(g) The law enforcement officer is not required to make an arrest based on who hit who first but shall consider the dynamics of domestic violence and the definition of predominate aggressor in determining which party to arrest.

(h) In addition to any other report required, a law enforcement officer who does not make an arrest after investigating a complaint of domestic violence, or who arrests two or more persons for a crime involving domestic violence, must submit a written report setting forth the grounds for not arresting or, in instances where both parties are arrested, separate reports for each party must be submitted that describe how the determination was made that both parties acted as predominant aggressors and that neither party acted primarily in self-defense.

(i) Copies of all reports shall be forwarded to Tribal Prosecutor, within 24 hours of reports of domestic violence, regardless of whether or not an arrest was made, arrests were made of two or more persons, or a predominate aggressor was identified and arrested.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 205]

**Section 206. Mandatory arrest for certain violations of orders for protection.**

When a law enforcement officer has probable cause to believe that a respondent has violated one of the following orders of the court and verifies the existence of the order, the officer shall, without a warrant, arrest the apparent violator, whether the violation was committed in or outside the presence of the officer, if the orders are issued in accordance with Sac and Fox Domestic Violence Code, or the laws of any other jurisdiction, provided such laws comply with 18 U.S.C. 2265. An officer making an arrest under this subsection shall be immune from suit provided s/he acted in good faith. Such orders may include, but are not limited to:

(a) An order enjoining the respondent from threatening to commit or committing acts of domestic violence against the petitioner or other family or household member;

(b) An order prohibiting the respondent from harassing, annoying, telephoning, contacting or otherwise communicating with the petitioner, either directly or indirectly through family, relations by marriage, friends, and co-workers;

(c) An order removing and excluding the respondent from the residence of the petitioner;

(d) An order requiring the respondent to stay away from the residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;

(e) An order prohibiting the respondent from using or possessing a firearm or other weapon specified by the court; The petitioner who is granted an order for protection cannot violate or be arrested for violation of her/his own order for protection.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 206]

**Section 207. Change of venue prohibited.**

The court where domestic violence charges were initially filed shall be the court of record, except in situations where the alleged perpetrator or alleged victim can demonstrate:

(a) Bias on the part of the court of record.

(b) Personal bias on the part of the prosecutor of the court of record and/or any prosecutor assigned specifically to handle domestic violence cases.

In the event that the alleged perpetrator believes the above conditions exist, s/he may file a motion for a change of venue at the time of arraignment. Said motion shall be heard in the court of record within six weeks following the filing of the motion.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 207]



**Section 208. Court action for conflicts among domestic violence response agencies, entities or personnel forbidden.**

The court shall not be a forum for retaliatory or malicious use or abuse of civil or criminal complaints to settle administrative or personal differences between domestic violence response system agencies, entities, or personnel. Issuance of orders for protection is strictly limited to victims of domestic violence, as defined by Section 201, and family or household members, as defined under Chapter 1, Section 103. Attempted abuse of the court through retaliatory or malicious use of civil or criminal process shall be actionable under this section as Criminal Contempt of court.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 208]

**Section 209. Officials who batter, including law enforcement officers; procedure.**

Upon receiving a report or notification that a law enforcement officer is a possible perpetrator of domestic violence:

(a) The dispatcher shall immediately notify the Chief of Police. The supervisor will either respond to the call or will notify the officer's supervisor.

(b) Line officers may secure the scene and ensure the safety of all parties, if necessary, and await the response of a superior. However, under no circumstances will line officers be responsible for or be assigned to investigate calls regarding other officers of equal rank or superior officers.

(c) Someone of higher rank than the alleged perpetrator must always be involved in responding.

Upon receiving notification that a public official is a possible perpetrator:

(a) The dispatcher shall notify the on-call supervisor and criminal investigator or designate, who shall respond immediately.

(b) The responding officer shall proceed with all reasonable means to secure the scene and ensure the

safety of all parties, if necessary, and await the response of the supervisor or criminal investigator. Law enforcement officers and public officials who are suspected of committing the crime of domestic violence shall be subject to all provisions of the Sac and Fox Nation of Missouri in Kansas and Nebraska Domestic Violence code, including mandatory arrest with probable cause, prohibitions against temporary release, and all laws involving firearms disqualification herein. The provisions of this section shall not relieve the responding officer from the duty to implement mandatory arrest, should probable cause and/or immediate victim safety indicate such action.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 209]

**Section 210. Officials who batter including law enforcement officers; prosecution responsibility.**

The Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Prosecutor shall be responsible for initiating, presenting, and prosecuting any domestic violence criminal case involving any official or law enforcement officer. Domestic violence cases involving prominent persons or other high-profile individuals and/or circumstances shall also fall under the direct prosecution responsibility of the Tribal Prosecutor. A Special Tribal Prosecutor may assist or represent the Tribe to meet due process requirements of the court, if the Tribal Prosecutor is not available. However, ultimate responsibility for prosecuting the case shall remain with the Tribal Prosecutor.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 210]

**Section 211. Authority of law enforcement officer to seize weapons.**

Incident to an arrest, or in the course of securing a crime scene involving domestic violence, a law enforcement officer:

(a) Shall seize all weapons that are alleged to have been involved or threatened to be used in the commission of a crime or any weapon in the immediate vicinity of the alleged commission of the offense; and

(b) Shall seize a weapon that is in the plain view or which is located during a search authorized by a person entitled

to consent to the search. The seizure of weapons is without regard to ownership of the weapons; weapons owned by a third party are subject to confiscation when officers conclude that the weapon was used in the commission of a crime or must be confiscated to protect law enforcement, victims of domestic violence, or others.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 211]

**Section 212. Immunity.**

(a) Any law enforcement officer shall have immunity from any liability, civil or criminal, in making arrests or exercising any other authority granted under this section when domestic violence or any crimes involving domestic violence have been committed, if the law enforcement officer acts in good faith so as to provide protection for victims of domestic violence.

(b) Law enforcement officers shall have the same immunity with respect to participation in any court proceedings resulting from arrests made for domestic violence or any crimes involving domestic violence.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 212]

**Section 213. Detention.**

Any person detained for the crime of domestic violence and/or any related offenses is under the care and supervision of the Chief of Police and subject to procedures and administrative rules which safeguard the safety of all inmates and the general public. There are certain privileges available to inmates at the discretion of corrections personnel. The purpose of this section is to provide procedures, which will establish enhanced detention safety mechanisms to safeguard victims of domestic violence from further harassment, threats, and/or violence. Corrections personnel shall:

(a) Prior to arraignment:

(1) Place all outgoing telephone calls from inmates, record the person and telephone number called in an inmate call log, and log whether or not the party called was contacted;

(2) Outgoing calls may be made to an attorney or family member. Telephone calls to the victim are prohibited; and

(3) Visitation is limited to state- or tribally-licensed attorneys, lay advocates and domestic violence probation officers, mental health personnel, tribal/state Department of Social Services, and chemical dependency personnel.

(b) Upon booking:

(1) Corrections personnel shall check all available information for existing orders for protection, probation/parole/supervised release status, and outstanding warrants; and

(2) Findings of an existing order for protection, current probation/parole/supervised release status, or outstanding warrant(s) shall require detention personnel to notify lay advocates and domestic violence probation, the tribal prosecutor, and the arresting officer(s).

(c) In the event of mutual arrest (both parties are arrested and booked), corrections personnel shall arrange for transport of one of the parties to an alternate detention facility.

(d) Inmate statements and threats:

(1) During booking, any statements made by an inmate, admitting or expounding upon the incident for which s/he has been incarcerated, shall be documented in an incident report, copies of which to be provided to his/her supervisor, the tribal prosecutor, and the arresting officer;

(2) In the event an inmate threatens physical injury, retaliation, or makes verbal statements that indicate an intent to harm the alleged victim, him/herself, domestic violence advocates, probation personnel, criminal justice personnel, or any reporting parties or witnesses, corrections personnel shall complete an incident report detailing the threats and/or statements. The report shall

be forwarded to his/her supervisor and the tribal prosecutor.

(e) Detention restrictions following conviction shall include:

(1) Any person convicted of, or pleading guilty to, a crime of domestic violence and/or other related offenses shall not be allowed trustee status during the term of his/her incarceration;

(2) The inmate shall not be allowed to place telephone calls to the victim in instances where an order for protection is in place prohibiting such contact;

(3) Other telephone privileges shall be permitted or denied according to the policies of the Division of Corrections;

(4) In the event an order for protection is in place and the victim seeks visitation with the inmate/respondent, corrections personnel shall advise the inmate that an order for protection prohibits such contact and that such contact is in violation of the order for protection. Should the inmate choose to make contact in violation of the order, corrections personnel are required to complete an incident report about the contact and forward the report to the tribal prosecutor and a lay advocate or probation officer.

(f) Inmates ordered held with no bond and no release until hearing shall be subject to the same conditions/restrictions as those afforded under Section 213, subsection 1.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 213]

**Section 214. Conditions of pre-trial release.**

(a) No person arrested for a crime of domestic violence or violation of an order for protection under this ordinance shall be released from detention until after the expiration of 72 hours from arrest, notwithstanding the ability to post a cash or surety bond or the failure of the prosecutor to file a criminal complaint.

(b) No person arrested for a crime of domestic violence or violation of an order for protection under this ordinance shall

be allowed a temporary release before arraignment except for extreme medical emergency or death of an immediate family member, and provided such release does not represent an imminent danger to the perpetrator's spouse/partner, immediate family, or others.

(c) Prior to arraignment, a domestic violence advocate or domestic violence probation officer shall meet in person with the alleged assailant to obtain custodial information and provide information on the availability of domestic violence re-education classes. Any meeting or informative session conducted by any court personnel, tribal probation officer, or any other person not meeting the definition of a domestic violence advocate or domestic violence probation officer, under Section 103 herein, shall not be construed as meeting the condition of this subsection.

(d) In making a decision concerning pretrial release of a person who is arrested for, or charged with, a crime involving domestic violence or a violation of an order for protection, the court may ask for or entertain a pre-release investigative report from the Tribal Court Probation Department. Regardless of whether or not any such investigation report and recommendations are asked for, the court shall review the facts of arrest and detention of the person and determine whether the person:

- (1) Is a threat to the alleged victim or other family or household member;
- (2) Is a threat to public safety;
- (3) Is reasonably likely to appear in court; and
- (4) Past behavior while on previous pre-trial release(s).

(e) The use or abuse of alcohol and/or other chemicals by the alleged perpetrator shall be considered, not only in relationship to the alleged assault but as alcohol and/or other chemicals relate to the alleged perpetrator's overall lifestyle, in the likelihood that alcohol and/or other chemicals greatly increases the likeliness or unlikeliness of a person to appear in court, potential for lethality, or enhances the possibility of further threats or injury to the victim or others.

(f) The employment, economic, educational, social and political status of the alleged perpetrator shall not be

considered in making a determination regarding release or process for release inconsistent with the provisions of this section.

(g) Before releasing a person arrested for or charged with a crime involving domestic violence, or a violation of an order for protection, the court shall make findings on the record, if possible, concerning the determination made in accordance with subsections 1-4 above, and the tribal probation guidelines and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:

(1) An order enjoining the person from threatening to commit or committing acts of domestic violence against the alleged victim or other family or household member;

(2) An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly through family, relations by marriage, friends, or co-workers;

(3) An order directing the person to vacate or stay away from the home of the alleged victim and/or child(ren) and to stay away from any location where the victim is likely to be;

(4) An order prohibiting the person from using or possessing a firearm or other weapon specified by the court;

(5) An order prohibiting the person from possession or consumption of alcohol or controlled substances; and

(6) Any other order required to protect the safety of the alleged victim and to ensure the appearance of the person in court.

(a) If conditions of release are imposed, the court shall:

(1) Issue a written order for conditional release;

(2) Immediately distribute a copy of the order to the prosecutor's office, Sac and Fox Police Department, Sac and

Fox Social Services Department and the Tribal Court's Probation Department;

(3) Provide Public Safety with any available information concerning the location of the perpetrator in a manner that protects the safety of the victim; and

(4) Inform the person to be released that his/her release shall be monitored by a probation officer of the Sac and Fox Tribal Court Probation Department for compliance with the conditions of release, and that a violation of those conditions may result in his/her arrest for non-compliance with release conditions.

(h) The clerk of courts or on-duty detention officer shall provide a copy of the conditions to the arrested or charged person upon his or her release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person has been provided other notice of the conditions.

(i) If conditions of release are imposed without a hearing, the arrested or charged person may request a prompt hearing before the court to review the conditions. Upon such a request, the court shall hold a prompt hearing to review the conditions.

(j) When a person who is arrested for or charged with a crime involving domestic violence, or a violation of an order for protection, is released from custody or has escaped from custody, the on-duty detention personnel at the jail shall:

(1) Use all reasonable means to immediately notify the alleged victim of the release;

(2) Immediately notify a domestic violence advocate; and

(3) Delay any pending release for a period not to exceed two (2) hours to allow for notification of the alleged victim by detention personnel and/or a domestic violence advocate.

(k) When a person who is arrested for or charged with a crime involving domestic violence or a violation of an order for protection is released from custody, or has escaped from custody, the Tribal prosecutor shall:



(a) Use all reasonable means to immediately notify the victim of the alleged crime of the release; and

(b) Furnish the victim of the alleged crime, at no cost, an official copy of any conditions of release.

(l) The clerk of court shall determine the court trial date and time prior to the defendant's release, informing the court and defendant of such for the record and denoting the trial date and time on the defendant's release documents. The defendant shall not be released until s/he has been advised of the trial date and time.

(m) The address of the victim is confidential and law enforcement personnel and the court personnel are prohibited from divulging it.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 214]

**Section 215. Self-defense: Judicial safeguards for victims.**

In the event of a dual arrest for domestic violence, or where a female perpetrator has been arrested, the presiding judge will take judicial notice of all factors in the case, including determinants for predominate aggressor, before entertaining a guilty plea by an alleged female perpetrator. Indications of self-defense shall be sufficient reason for a judge to order a hearing to show cause before proceeding with a domestic violence charge against the alleged female perpetrator. Such procedure and hearing shall take place to determine possible self-defense, with or without concurrence of the prosecutor.

During such hearing to show cause, the presiding judge will entertain any pertinent information and/or expert testimony of domestic violence advocates pertaining to domestic violence or any other factors relating to the self-defense characteristics displayed in domestic violence cases.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 215]

**Section 216. Mandatory arrest for violation of conditions of release.**

If a law enforcement officer or domestic violence probation officer has probable cause to believe that a person on domestic violence probation, parole, or other supervised release has violated a condition of release imposed in accordance with Section 214 herein, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer. A domestic violence probation officer may, for reasons of dangerousness and safety, direct a law enforcement officer to take the person into physical custody on the authority of the probation officer's probable cause.

A sworn affidavit by a domestic violence probation officer, law enforcement officer or upon the report of a person to be protected under a domestic violence order for protection, of such violation will constitute probable cause to arrest without a warrant, under this section.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 216]

**Section 217. Written procedures for prosecution of domestic violence; purpose.**

Within 180 days following the enactment of the Domestic Violence Code, the Tribal Attorney shall develop, adopt, and put into effect written procedures for the prosecution of domestic violence crimes to ensure the effective prosecution of domestic violence crimes. Such procedures shall include:

- (a) A mandatory "cooling off" period prior to arraignment;
- (b) The employment, economic educational, physical and/or mental health and political status of the alleged perpetrator and victim shall not enter into determinations for domestic violence crimes;
- (c) A "no drop" policy which prohibits victims from withdrawing charges;
- (d) The prohibition of no contest, diversion, and deferred sentencing;
- (e) The use or abuse of alcohol by the alleged perpetrator or victim shall not be a primary factor in determining the pursuit of domestic violence cases but shall be considered as it relates to the safety of the victim and potential lethality;

(f) A process describing the utilization of advocates during every phase of criminal justice proceedings;

(g) No member of the prosecution office has the authority to order the release of an alleged perpetrator prior to the procedures described in Section 214, subsection 1;

(h) Prosecution shall not dismiss a domestic violence case without prior consultation and review with the arresting officer(s) and a domestic violence advocate;

(i) Prosecution shall expedite proceedings with a minimum of continuances and shall consider the present residency of the victim as it relates to continuances, especially if the victim has relocated off the reservation for safety;

(j) The victim may but shall not be required to act as the primary witness. In instances where the victim may be unavailable or it is not safe for the victim to appear, the prosecution is required to enlist any and all evidentiary avenues, including photographs, other witnesses, excited utterance and other law enforcement testimony, medical records, history of past abuse, etc.;

(k) The prosecution shall make every reasonable effort and shall include advocacy in an attempt to avoid charging victims with contempt in instances where victims refuse to testify or cooperate in the criminal justice process; such efforts shall include provisions for training prosecutors to prepare cases with the expectation that the victim will not be available at trial;

(l) In recognizing domestic violence as a crime and not a relationship issue, the prosecution shall not recommend or promote any actions that require the victim to engage in any type or form of a mediation process with the alleged assailant such as mediation, peace-making, alternative justice, restorative justice, family counseling, couple counseling, circle sentencing, etc.

(m) Measures to expedite prosecution of, and recommend enhanced penalties for, repeat offenders; and

(n) Any other policies and procedures that serve as reasonable efforts to ensure the protection and safety of victims of domestic violence.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 217]

**Section 218. Duty of prosecutor to notify victim.**

(a) A prosecutor shall make reasonable efforts to notify a victim of an alleged crime involving domestic violence when the prosecutor has decided to decline prosecution of the crime, to dismiss the criminal charges filed against the defendant, or to enter into a plea agreement.

(b) Release of a defendant from custody must not be delayed because of the requirements of subsection 1, except as provided for under Section 214 (11)(c) above.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 218]

**Section 219. Record of dismissal required in court file.**

When the court dismisses criminal charges or a prosecutor moves to dismiss charges against a defendant accused of a crime involving domestic violence, the specific reasons for the dismissal must be recorded in the court file. The prosecutor shall indicate the specific reason why any witnesses are unavailable and the reasons the case cannot be prosecuted. Any dismissal of a complaint by the Court, for any reason other than insufficient evidence, may be appealed by the Tribe or the victim to the Sac and Fox Nation Supreme Court.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 219]

**Section 220. Dismissal of criminal case prohibited because civil compromise reached.**

The court shall not dismiss a criminal case involving domestic violence for the sole reason that a civil compromise or settlement is reached. Evidence of a civil compromise or settlement shall not be admissible in the criminal proceeding as evidence of consciousness of guilt or innocence, or an admission against interest. It shall also not be used to impeach a victim's testimony.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 220]

Section 221. Rights of victims of domestic violence; duty of prosecutor to inform victim of rights.

(a) A victim of domestic violence is entitled to all rights granted to victims of crime, including but not limited to the right to:

(1) Be informed of all hearing dates and continuances;

(2) Provide the court with a victim-impact statement, victim-opinion statement, and an assessment of the risk of further harm;

(3) Be present at sentencing and address the court;

(4) Advise the court of conditions of probation and parole required to ensure the safety of the victim and other family or household members;

(5) Restitution for losses sustained as a direct consequence of any criminal conduct;

(6) Apply for any available victims' compensation and to be informed of procedures for applying; and

(7) Receive notice from the prosecutor in accordance with Section 218.

(b) The prosecutor shall notify any victim of domestic violence of his/her rights set forth in this section, in writing. For notice to be meaningful, it should be actual, timely, and written in a language in which the victim is competent.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 221]

**Section 222. Security and confidentiality of domestic violence shelters/programs; Restrictions.**

(a) The security and confidentiality of any domestic violence shelter/program within the exterior boundaries of the Reservation of the Sac and Fox Nation of Missouri in Kansas and Nebraska shall be recognized by the court, law enforcement, and other service agencies as existing for the safety of victims of domestic violence. Advocates and shelter staff will not substantiate, verify, or deny placement information or the whereabouts of any domestic violence victim, or his/her children.

(b) Law enforcement officers and/or criminal investigators will contact the domestic violence shelter/program with any message for individual victims concerning investigations or victim information.

Law enforcement officers will not attempt coercion, duress, or intimidation of shelter staff or advocates to gain access to the shelter or information on the whereabouts of any victim. Any such attempt will be considered a violation of the Victim-Advocate Privilege Act, and any information gained from such an attempt will not be admissible in any tribal court proceeding.

(c) No judge or officer of the Sac and Fox Tribal Court will issue or initiate any search warrant, pick-up order, summons, bench warrant or any notice of court proceedings specifying the domestic violence shelter/program as the individual's residence and/or location. Nor shall the shelter or domestic violence program be named as a party in any court action involving individual victims that may or may not be receiving advocacy services from the domestic violence shelter/program.

(d) While the domestic violence shelter/program may not be named as party to any individual's court proceedings, an individual may give permission for a domestic violence shelter/program advocate to obtain court paperwork on his/her behalf. Such action shall not be construed by the court or law enforcement to mean that the domestic violence shelter/program is a party to any court proceedings, civil and/or criminal, between the two parties.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 222]

**Section 223. Spousal privileges inapplicable in criminal proceedings involving domestic violence.**

The following evidentiary privileges do not apply in any criminal proceeding in which a spouse or other family or household member is the victim of an alleged crime involving domestic violence perpetrated by the other spouse:

- (a) The privilege of confidential communication between spouses.
- (b) The testimonial privilege of spouses.
- (c) Any other privilege granted by Title 13, Section 504.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 223]

**Section 224. Victim-advocate privilege applicable in cases involving domestic violence.**

(a) Except as otherwise provided in subsection 2, a victim of domestic violence may refuse to disclose, and may prevent an advocate, elder, or medicine person from disclosing, confidential oral communication between the victim and the advocate and written records and reports concerning the victim unless the privilege is waived by:

- (1) The victim; or
- (2) The death of the victim.

(b) The privilege does not relieve a person from any duty imposed in the mandatory reporting of child abuse or neglect. A person may not claim the privilege when providing evidence in proceedings concerning child abuse or neglect.

(c) As used in this subsection, "advocate" means an employee of or volunteer for a program for victims of domestic violence who:

- (1) Has a primary function of rendering advice, counseling, or assistance to victims of domestic violence; supervising the employees or volunteers of the program; or administering the program;

(2) Has undergone specialized domestic violence advocacy training; and

(3) Works under the direction of a supervisor of the program, supervises employees or volunteers, or administers the program.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 224]

**Section 225. Residential confinement in home of victim prohibited; cultural remedies restricted.**

In cases involving domestic violence, a court shall not order residential confinement for a perpetrator in the home of the victim. Nor shall the court order any action, even though the action might commonly be perceived by the community as a cultural remedy, that might jeopardize the safety of the victim.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 225]

**Section 226. Diversion prohibited; deferred sentencing prohibited; no contest prohibited.**

The Court shall not consider diversion or deferred sentencing recommendations for a perpetrator of domestic violence.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 226]

**Section 227. Appearance or testimony of victim not required.**

No judge or prosecutor shall require a victim of domestic violence or related offense addressed by this code to appear or testify as a condition of proceeding with the prosecution of any offense included in this domestic violence code.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 227]



**Section 228. Conditions of probation for perpetrator convicted of crime involving domestic violence; required reports by probation department.**

(a) Before placing a perpetrator who is convicted of a crime involving domestic violence on probation, the court shall first consider the safety and protection of the victim of domestic violence.

(b) The court may condition the granting of probation to a perpetrator in compliance with one or more orders of the court, including but not limited to:

(1) Mandatory probation/parole conditions as specified under Chapter 2, Section 205, of the Probation and Parole Act;

(2) Enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(3) Prohibiting the perpetrator from harassing, annoying, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly through family, relations by marriage, friends, or co-workers;

(4) Requiring the perpetrator to stay away from the residence, school, place of employment, or a specified place frequented regularly by the victim and any designated family or household member;

(5) Prohibiting the perpetrator from possessing or consuming alcohol or controlled substances;

(6) Prohibiting the perpetrator from possessing a firearm or other specified weapon;

(7) Directing the perpetrator to surrender any weapons owned or possessed by the perpetrator;

(8) Directing the perpetrator to participate in and complete, to the satisfaction of the court, a program of intervention for perpetrators, treatment for alcohol or substance abuse, or psychiatric or psychological treatment or any other program or service deemed applicable by the

domestic violence program or domestic violence probation officer;

(9) Directing the perpetrator to pay restitution to the victim;

(10) Directing the perpetrator to refrain from any violations of law for the duration of his/her probation; and

(11) Imposing any other condition necessary to protect the victim of domestic violence and any designated family or household member, or to rehabilitate the perpetrator.

(c) The court shall utilize its regular precautions to process and enforce substantiated documentation of non-compliance with probation conditions.

The court shall consider non-compliance with any probation conditions to be a matter of contempt of court and subject to summary penalties. The court may entertain additional charges from the tribal prosecutor for Failure to Obey Lawful Order of the Court, which shall be separate and in addition to non-compliance criminal contempt.

(d) The court shall order, as a condition of sentencing, that the convicted perpetrator be placed under supervised probation with the Sac and Fox domestic violence probation department for a period consistent with Section 203 of this code.

(e) The Sac and Fox probation department shall document and report to the Sac and Fox Tribal District Court any violations of law, any assault by the perpetrator, any threat of harm made by the perpetrator, and the perpetrator's failure to comply with any condition imposed by the court or probation department, regardless of where the violation occurred or under what jurisdiction any subsequent crime was adjudicated. Such a violation shall be deemed as constituting non-compliance with probation conditions.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 228]

**Section 229. Release of perpetrator permitted under certain conditions; notice to victim; confidentiality of victim's address.**

(a) The court may release a perpetrator of a crime involving domestic violence only under conditions that would protect the safety of a victim of domestic violence or other family or household member.

(b) The jailer shall notify a domestic violence advocate, who shall notify the victim of a crime of domestic violence, of the proposed release of the perpetrator before the date and/or time of release of the perpetrator, if the victim has provided domestic violence, staff with an address at which she/he can notified.

(c) The address of a victim of a crime involving domestic violence is confidential. Law enforcement, criminal justice personnel, probation and advocates shall not reveal any address provided. Law enforcement, criminal justice personnel, probation and advocates shall be subject to any internal policies or procedures that address breach of confidentiality and may also be subject to prosecution.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 229]

**Section 230. Required written policies and procedures; Sac and Fox Tribal Police Department.**

Within 180 days of the enactment of the Domestic Violence Code, the Sac and Fox Tribal Police Department shall develop or adopt and put into effect written policies and procedures concerning:

(a) The effective response of the agency to cases involving domestic violence.

(b) Enforcement of all applicable Sac and Fox statutes concerning domestic violence.

(c) Protection and safety of the victims of domestic violence and other family and household members.

(d) The method or process for sanctions against officers or officials who fail to follow or enforce official protocols.

5. The protocol for responding to domestic violence crimes perpetrated by law enforcement officers and law enforcement officials.

(e) The protocol for response to sexual assault arising from domestic violence.

(f) Coordination with hospitals and programs for victims of domestic violence.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 230]

**Section 231. Role of the Court; sentencing; probation conditions.**

In responding to the crime of domestic violence the Court shall:

(a) Establish a specialized court docket to expedite trials of domestic violence criminal cases as prescribed under Section 239. The specialized docket shall provide that domestic violence case trials be scheduled and conducted within 65 calendar days of arraignment and initial appearance unless good cause is shown. Any sentencing hearings must be held no later than three court days after conviction;

(b) Advise the offender that s/he is prohibited from substituting other services or activities, such as individual counseling, alcohol treatment or participation in traditional healing practices, for participation in the offender's program as defined in Section 103, except for as such activities may be offered through the domestic violence offender's program, domestic violence probation department, or sought out voluntarily in addition to the domestic violence offender's program requirements;

(c) In the event the offender does not comply with the domestic violence program and/or other conditions of probation, the court shall find the offender in contempt of court and shall impose service of the original sentence, plus an additional one-half of incarceration time, during which time the offender must concurrently attend the domestic violence program. Further, the court will order that any additional contempt of court sentence be served consecutively. The Tribal Prosecutor may also pursue additional charges for Failure to Obey Lawful Order of the Court. However, any subsequent charge of Disobedience shall

not alleviate or detract from the court's responsibility to ensure enforcement of sentencing and/or probation/parole/supervised release conditions;

(d) Upon conviction of any second or subsequent offense, the offender shall be sentenced according to the mandatory provisions of Section 203. Probation will commence at the time of the second conviction; prior or current probation time will not be considered as fulfilling any second or subsequent probationary period and/or any sentencing, fine, rehabilitation, and community service conditions imposed by the court;

(e) The court will advise the defendant when and where s/he will report to the Sac and Fox probation department for intake and rehabilitative assessment;

(f) Not require that the victim be available to the court for any sentencing or court imposed requirements in relation to the offender's sentence for the crime of domestic violence, although the court may advise the victim of services available in the community through direct contact, the prosecutor, or domestic violence probation department and advocates;

(g) Acknowledge that any person placed on probation for a domestic violence crime shall be subject to random or specific drug testing, to be implemented and monitored by the Sac and Fox Probation Department. While on probation a perpetrator shall also be subject to unannounced blood, urine, saliva, hair, portable breath or intoxilyzer tests to determine whether the probationer has been consuming alcoholic beverages. Such drug testing shall be implemented and monitored as per the regular procedures of the Probation Department.

(h) Provide that any domestic violence offender found to be in non-compliance will serve his/her full original sentence, plus one-half, but shall be subject to all rehabilitation efforts available to any offender on probation. The Sac and Fox probation officer shall petition the court, outlining the rehabilitation activity recommended, for release of the offender to the custody of the probation officer for rehabilitation placement. The offender shall be returned and shall complete any remaining sentence upon completion of the rehabilitation activity.

(i) Advise offender's on domestic violence probation that probation time will not run during the duration of any rehabilitative activity or treatment in excess of thirty (30)

days, and no reduction of sentenced jail time shall accrue or be exchangeable for conditional release time allowed under subsection 8 above.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 231]

**Section 232. Probation violations, process for revocation, consequences.**

(a) The court shall recognize the signed affidavit of the Sac and Fox Probation Department and accompanying documentation outlining any violation of probation conditions as probable cause for warrantless arrest or issuance of a warrant for the perpetrator's arrest.

(b) Upon a warrantless arrest for a probation violation, the person on probation will be held without bond, or eligibility for temporary release, pending court appearance for contempt. In addition to an affidavit and documents of non-compliance, the Sac and Fox Probation Department shall submit a probation investigation report and make recommendations to the court regarding further sentencing for the probation violation before the court appearance on the non-compliance. Upon review of the affidavit, accompanying documentation, and recommendations, the court shall make a judicial determination that a violation of probation has or has not occurred, and enact a finding of contempt of court for noncompliance, if indicated. Upon such finding, the court shall re-impose any suspended sentence, plus one-half of any such jail sentence, and the probationer shall be required to concurrently attend domestic violence classes. The court may impose any additional conditions and consider the appropriateness of additional charges for disobedience to a lawful order of the court. Further charges shall be served consecutively.

(c) If the court has issued a Bench Warrant based upon an affidavit and supporting evidence of noncompliance with probation conditions, issuance of the Bench Warrant shall constitute a judicial determination that a violation of probation has occurred. After the execution and arrest under such a Bench Warrant, the person on probation will be held without bond, or eligibility for temporary release, pending court appearance for contempt. At the court appearance, the court shall recognize that a judicial determination that a violation of probation has occurred has already been met, and

shall enact a finding of contempt of court for non-compliance. The court shall re-impose any suspended sentence, plus one-half of any such jail sentence, and the probationer shall be required to concurrently attend domestic violence classes. The court may impose any additional conditions and consider the appropriacy of additional charges for disobedience to a lawful order of the court. Further charges shall be served consecutively.

(d) The economic, employment, educational, social, and political status of any person on probation shall not be considered in this process or in any consideration of further sentencing.

(e) The jail shall notify the Sac and Fox domestic violence probation department of any person on probation who is arrested for any crime.

(f) In the event the person who is charged with a subsequent offense of domestic violence and/or any other charge, the Sac and Fox probation department shall file an affidavit, accompanying documents, and recommendations to the court to address a violation of mandatory conditions and subsequent violation of probation. A violation of probation that occurs concurrently with other charges shall not preclude the prosecution from filing additional charges.

(g) The Sac and Fox Police Department shall expedite service of bench warrants for non-compliance to ensure the safety of the victim and community.

(h) The booking charge under this section shall be Failure to Obey a Lawful Order of the Court.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 232]

**Section 233. Mandatory training; Department of Public Safety and BIA or Tribal criminal investigators.**

(a) All employees and officials of the Sac and Fox Police Department and the Sac and Fox criminal justice system, including any BIA or Tribal criminal investigators whose responsibility it is to investigate felony and misdemeanor crimes occurring on the Sac and Fox Indian Reservation, shall participate in initial training, to include but not be limited to:

(1) The specific provisions of the Sac and Fox Domestic Violence Code

(2) The dynamics of domestic violence, the impact of victimization, offender's re-education programs, and coordinated systems response in order to facilitate the implementation of this ordinance; in addition, law enforcement training shall include the technical aspects in making a domestic violence arrest including probable cause, self-defense, mutual arrest, evidence gathering, and report writing.

(3) The Chief of Police shall be responsible for coordinating the training curriculum.

(4) Failure to participate in the mandatory training shall result in disciplinary action, with a minimum of a written reprimand placed in his/her personnel file and future monitoring to ensure attendance at training.

(5) Failure to participate by a subordinate officer or employee shall result in consideration of disciplinary action against his/her immediate supervisor.

(b) Mandatory annual re-fresher training shall be required of all personnel covered by this section.

(c) All new employees of the Sac and Fox Police Department, the Sac and Fox criminal justice system, and/or any new or recently detailed BIA or Tribal criminal investigators shall be required to complete the initial training outlined in subsection 1 within six (6) months of their hire or reassignment date.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 233]

**Section 234. Juveniles.**

Any juvenile committing domestic violence as defined in Section 103, shall be subject to prosecution and all other conditions outlined under the Sac and Fox Domestic Violence Code. Any such proceeding shall be closed and any imposition of days shall be served in a Juvenile Detention Center. Juvenile domestic violence offenses or case files shall not be made available or considered for the purposes of determining habitual



domestic violence offender status under Section 237 of this code.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 234]

**Section 235. Ethics; familial relationships of law enforcement, prosecution, and judges to defendant.**

All public servants shall be expected to perform their duties and proceed in accordance with this code no matter what the employment, educational, social and political status of the alleged perpetrator and/or victim. Public servants shall be held to the highest professional standards in responding to the crime of domestic violence, including instances involving a relative by blood or marriage, or involving close personal acquaintance and association. Failure to adhere to professional and legal standards shall subject such public servant to any administrative, civil, and/or criminal sanctions under individual agency policy, the Sac and Fox Tribal Code, Judicial Code of Ethics, and specific sanctions available under the domestic violence code.

(a) In instances where a law enforcement officer responds to a call involving a relative by blood or marriage, or involving close personal acquaintance and association, the officer shall:

(1) Note the relationship on the case report; and

(2) Prioritize the safety of the alleged victim and adhere to mandatory arrest provisions upon a determination of probable cause.

(b) In instances where a law enforcement officer responds to a call involving a relative by blood or marriage, or involving close personal acquaintance and association, the supervisor of the officer reviewing the report shall:

(1) Review the report for accuracy and ensure that appropriate action has been taken; and

(2) Take appropriate measures to immediately correct inappropriate action and provide for constructive counseling and disciplinary action where necessary.

(c) In instances where a law enforcement supervisor has a conflict of interest, because an incident involves a relative by blood or marriage, or involving a person of close personal acquaintance and association, the supervisor shall:

(1) Adhere to all professional and legal standards when supervising or reviewing the actions of his/her subordinate; and

(2) Delegate or relinquish supervisory authority in instances where any semblance of impropriety or alleged differential treatment may become an issue.

(d) A law enforcement officer or law enforcement supervisor who fails to respond within the appropriate legal and procedural parameters of this section, when a relative by blood or marriage, or person of close personal acquaintance and association, is suspected of committing the crime of domestic violence, shall be subject to disciplinary action as prescribed in Sac and Fox Police Department Policies and Procedures and possible criminal action under Section 236 of this code.

(e) In instances where prosecutors or judges are involved in making decisions when the alleged perpetrator of a domestic violence crime is a relative by blood or marriage, or a person of close personal acquaintance and association, the prosecutor and/or judge shall:

(1) Recuse him/herself from prosecuting or hearing the case whenever possible;

(2) In the event that circumstances do not allow withdrawal from prosecuting or hearing the case, the prosecuting attorney and/or judge shall be required to maintain the highest professional standards, and shall conduct themselves within the legal parameters of the Domestic Violence Code and Judicial Code of Ethics.

(f) In instances where other public servants, including but not limited to court clerks, juvenile presenting officers, and probation officers, are involved processing any case where the alleged perpetrator of a domestic violence crime is a relative by blood or marriage, or a person of close personal acquaintance and association, the public servant shall:

(1) Make every effort to remove him/herself from any direct involvement in the case, including the handling of case files and reports; and

(2) When involvement is necessary and unavoidable, adhere to all professional and legal standards of conduct according to the Domestic Violence Code and Judicial Code of Ethics.

(g) Any perceived improprieties, nepotism, favoritism, or differential treatment shall be referred to the Tribal Prosecutor's Office for investigation and possible disciplinary, civil, or criminal action under Section 236 of this chapter.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 235]

**Section 236. Ethics violations; assisting domestic violence offenders; criminal prosecution; penalties.**

The Tribal Prosecutor shall review any reported violations of ethics, as described under Section 235, to determine if such violation was deliberate and involved the willful and knowing utilization of collusion, favoritism, nepotism, deception, coercion, theft, or the destruction, secreting or altering of records, to circumvent any of the provisions of this Domestic Violence Code. If such a determination is made:

(a) Any public servant, as defined by Section 103 herein, who willfully and knowingly utilizes collusion, favoritism, nepotism, deception, coercion, or the destruction, secreting, or altering of records to assist an offender in circumventing the provisions of the Domestic Violence Code shall be liable for prosecution for a misdemeanor crime of Assisting Domestic Violence Offenders;

(b) Any person making a judicial admission or pleading guilty to, or found guilty of, a violation of this section shall be subject to a minimum 30 days in jail and \$500 fine, and costs;

(c) Prosecution under this section shall not negate any cause of civil remedy available to any victims of domestic violence whose safety was placed in jeopardy by the actions of such public servant;

(d) The Tribal Prosecutor shall have exclusive responsibility for the investigation, charging, and prosecution of any violation of this section; and

(e) Prosecution under this section does not negate or relieve any individual supervisor or agency from responsibility for taking any administrative action or initiating any sanction under Judicial Code of Ethics, of the Sac and Fox Tribal Code, or agency or departmental policies and procedures.

(f) A conviction under this section shall be reported by the Tribal Probation Office to any applicable tribal, state or federal licensing boards, commissions or entities regulating any licensed or regulated profession or occupation of the offender.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 236]

**Section 237. Habitual domestic violence offender status.**

Any person convicted or having pled guilty to three or more offenses of domestic violence, or related offenses under this Domestic Violence Code or the equivalent violations under another tribe's or a state's law shall be judicially designated as a Habitual Domestic Violence Offender, such designation to be displayed on the outside of, and made a part of, any subsequent criminal case file arising from any violation of the Sac and Fox Tribal Code. The court shall further provide that:

(a) Judicial notice of such status shall be taken regarding sentencing for any further violations of the Sac and Fox Tribal Code, including subsequent violations of the domestic violence code;

(b) A current and updated registry be maintained for information on habitual domestic violence offenders, with inclusion of the registry in any tribal criminal information database and provision to make the information available upon inquiry from any court, law enforcement, or domestic violence advocacy agency;

(c) Consecutive sentencing be implemented for any further violations of the Sac and Fox Tribal Code, including subsequent violations of the Domestic Violence Code; and

(d) Any person judicially designated as a Habitual Domestic Violence Offender shall be subject to extended rehabilitative efforts, including but not limited to extended sentencing to the Sac and Fox offender's program, extended domestic violence probation, and increased monitoring efforts as outlined and recommended to the court;

(e) Any person judicially designated as a habitual domestic violence offender under this section shall be subject to the permanent or extended prohibition against possessing, using, selling, trading or access to any firearm or ammunition. Qualifying cases for determining habitual offender status shall be any domestic violence offense charged after December 31, 2015.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 237]

**Section 238. Possession, use, sale, or trade of firearms by person under an order for protection; misdemeanor charge; penalties.**

Any person who, while under an order for protection issued under the provisions of this code, or court order made under Section 237 above, is convicted of possessing, using, selling, trading, or having immediate access to any firearm or ammunition, in violation of Section 202 of this chapter, shall be subject to prosecution for the specific offense of Domestic Violence Firearms Violation, such conviction to carry a minimum penalty of 60 days confinement in jail, \$250 fine, or both such confinement and fine, and costs.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 238]

**Section 239. Mandatory domestic violence docket; limited continuances.**

The Sac and Fox Tribal District Court shall expedite the hearing of domestic violence criminal cases on its docket, with domestic violence cases being scheduled no later than sixty five (65) days following initial arraignment.

Judges shall limit continuances and grant continuances only after a proper Motion has been filed with sufficient grounds

stated for the record. Only one such continuance shall be allowed per defendant, and only under one of the following grounds:

- (a) Lack of legal counsel.
- (b) Serious illness with a doctor's statement submitted when Motion is filed.
- (c) Death or serious illness of an immediate family member.
- (d) Pending Motion for Change of Venue, if filed two days prior to the scheduled court date.
- (e) Incarceration in another tribal, state, municipal, or federal correctional facility.

Employment issues, lack of transportation, or forgetfulness shall not be considered valid grounds for a continuance. No telephone, verbal, or third-person requests for continuance shall be accepted by the Court.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 239]

**Section 240. Denying, hindering, or delaying provision of emergency or law enforcement services to a family or household member; mandatory arrest; penalties.**

It shall be a misdemeanor offense of Hindering Emergency Services for:

(a) Any person to use force, fear, or intimidation against a family or household member to prevent that family or household member from contacting law enforcement services, emergency medical services, or the 911 reporting system to secure appropriate law enforcement or emergency services assistance on behalf of him-/herself or another; and

(b) Any person to destroy, disable, conceal, or remove from the immediate premises any telephone or other telecommunications devices, or any motor vehicle or other means of transportation, with the intent to deny, hinder, delay, or prevent any family or household member from attempting to secure

law enforcement or emergency services in a timely and expedient manner.

(c) Any person who is convicted of, or pleads guilty to, subsection 1 or 2 shall be subject to a minimum confinement of 30 days in jail, \$250.00 fine, or both such confinement and fine, plus mandatory restitution for repairs to any damaged property or vehicle, plus costs.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 240]

**Section 241. Required participation; information technology system.**

To increase the responsiveness of the Sac and Fox Nation of Missouri to the crime of domestic violence and to provide specialized monitoring of domestic violence offenders and enhance services to victims of domestic violence, as well as for all other crime, all tribal criminal justice agencies, including the Sac and Fox Tribal Court and Sac and Fox Police Department, and victim services agencies for domestic violence, shall be required to actively participate in any domestic violence tracking and/or criminal information system or technology which:

(a) Has as its primary purpose the coordination and collection of domestic violence offender information, orders for protection, criminal justice response records and documents, and law enforcement reports and documentation;

(b) Provides for controlled and secure access by responding agencies to domestic violence;

(c) Interfaces with any habitual domestic violence offender and/or order for protection registry implemented under the domestic violence code;

(d) Provides for the gathering and dissemination of detailed statistical information reports on offenders, victim services, and agency response.

(e) Adheres to strict policies and procedures to enhance and provide for victim confidentiality and safety, and offender accountability.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 241]

**Section 242. Specific Applicability.**

The provisions of this chapter apply specifically to this domestic violence code and take precedence over any general laws of applicability.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 242]



## CHAPTER 3

## CIVIL ORDERS FOR PROTECTION

**Section 301. Eligible petitioners for order.**

(a) A person who is or has been a victim of domestic violence may file a petition for an order for protection against any person who has threatened or has committed an act of domestic violence as defined in Section 201, and is a family or household member as defined in Section 103 of this code.

(b) A parent, guardian, or other representative may file a petition for an order for protection on behalf of a child or family or household member, or former household member on behalf of a child against a family or household or former household member, who commits an act of domestic violence.

(c) Issuance of an order for protection must arise from a situation of domestic violence as defined by Section 201 of this code.

(d) A person who is an employee of an agency or department engaged in conflict with another agency or department shall not be allowed to file for an order of protection against the individual employee or agency s/he is in conflict with. Neither shall an agency or department be allowed to file for an order for protection against another agency or department or against an individual employed by the agency or department because of personal or professional differences.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 301]

**Section 302. Uniform form required for petitions and orders; required statements in petitions and orders; duty of clerk to provide petitions and clerical assistance; no fee for filing.**

(a) The Sac and Fox Tribal Court system shall:

(1) Develop and adopt uniform forms for petitions and orders, including but not limited to such orders issued pursuant to divorce, custody, protection and other domestic relations hearings;

(2) Provide that the title of any form or order developed under this section, whether an emergency, emergency ex parte, or permanent order for protection, shall include the words "Order for Protection";

(3) Provide that all petitions and forms developed and implemented under this section address and include all requirements for compliance with full faith and credit provisions of the Violence Against Women Act, 18 U.S.C. § 2265; and

(4) Provide the forms to the clerks of court authorized to issue such orders, legal services agencies, victim services agencies, and advocacy agencies.

(b) In addition to any other required information, the petition for an order for protection must contain a statement listing all current or pending civil or criminal actions involving one or both parties.

(c) The following statements must be printed in bold-faced type and/or in capital letters on the order for protection:

(1) "Consequences for violation of this order for protection include...":

(2) "If so ordered by the court, the respondent is forbidden to enter or stay at the petitioner's residence, even if invited to do so by the petitioner or any other person. In no event is the order for protection voided by any such invitation or contact initiated by the plaintiff.";

(3) "Any person who is subject to an order for protection shall not possess, own, buy, sell, trade, or have immediate access to any firearm or ammunition, in violation of Section 206 of the Sac and Fox Domestic Violence Code and Title 18, United States Code, Section 922 (g)(8). Violation of firearms restrictions shall result in prosecution under tribal and/or federal law."

(d) The clerk of court or Sac and Fox Tribal Court personnel shall provide to a person requesting an order for protection:

(1) The form adopted pursuant to subsection 1;

(2) All other forms required for an order for protection, including but not limited to, forms for service and forms required by Uniform Child Custody Jurisdiction Act; and

(3) Clerical assistance in filling out the forms and filing the petition.

(e) Except as otherwise provided in section 305, a petition for an order for protection must be in writing, verified, and subscribed to in the manner provided by tribal law.

(f) All orders for protection must be issued on the form adopted in accordance with subsection 1.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 302]

**Section 303. Jurisdiction; venue; residency not required to petition.**

(a) The Sac and Fox Tribal District Court has jurisdiction over any petition for orders for protection under this code when the petitioner or respondent is domiciled or found within the boundaries of the Sac and Fox Nation or any act of domestic violence occurred within the boundaries of the Sac and Fox Nation or when the court is being asked to recognize and enforce a valid order of another court of competent jurisdiction. The Court shall construe this section liberally to exercise maximum jurisdiction permitted under the Tribal Constitution.

(b) All court proceedings in reference to the order for protection shall be carried out where the original order for protection was filed unless the alleged perpetrator can prove such conditions as cited in Section 207. Motions for a change of venue must be filed within five days of notice to the perpetrator.

Relationship by blood or marriage are not sole cause for a change of venue. Any motion for change of venue shall be heard by the original court of record.

(c) There is no minimum requirement of residency to petition for or to be granted an order for protection.

[History: L. 2015, December 22; R-62-15]

## PUBLIC LAW # T 30 § 303]

**Section 304. Continuing duty to inform court of other proceedings; effect of other proceedings; delay of relief prohibited; omission of petitioner's address.**

(a) At any hearing in a proceeding to obtain an order for protection, each party has a continuing duty to inform the court of each proceeding for an order for protection, any civil litigation, each proceeding in family or juvenile court, and each criminal case involving the parties, including the case name, the file number, and the tribe, county, and/or state, including federal proceedings, if that information is known by the party.

(b) An order for protection is in addition to and not in lieu of any other available civil or criminal proceeding. A petitioner is not barred from seeking relief because of the existence of a pending action between the parties.

(c) A petitioner may omit her or his address from all documents filed with the court. If a petitioner omits her or his address, the petitioner must provide the court a mailing address or, in the event the petitioner is utilizing advocacy services, the name of an advocate that has the knowledge to be able to contact the petitioner. If disclosure of petitioner's address is necessary to determine jurisdiction or consider venue, the court may order the disclosure to be made:

- (1) After receiving the petitioner's consent;
- (2) Orally and in chambers, out of the presence of the respondent and a sealed record be made; or
- (3) After a hearing, if the court takes into consideration the safety of the petitioner and finds such disclosure is in the interest of justice.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 304]

**Section 305. Order for protection; modification of orders; relief available ex parte; relief available after hearing; duties of the court; duration of order.**

(a) If it appears from a petition for an order for protection, or a petition to modify an order for protection, that domestic violence has occurred or a modification of an order for protection is required, the Sac and Fox Tribal District Court may:

(1) Without notice or hearing, immediately issue an order for protection ex parte or modify an order for protection ex parte as it deems necessary to protect the petitioner; or

(2) Upon notice, issue an order for protection or modify an order after a hearing, whether or not the respondent appears;

(b) A court may grant the following relief without notice and hearing in an order for protection or a modification issued ex parte, and the court may grant the following relief in a permanent order for protection or a modification of a permanent order for protection:

(1) Enjoin the respondent from threatening to commit or committing acts of domestic violence against the petitioner and any designated family or household member;

(2) Prohibit the respondent from harassing, annoying, telephoning, contacting, or other communicating with the petitioner directly or indirectly through friends, relatives, or co-workers;

(3) Remove and exclude the respondent from the residence of the petitioner, regardless of ownership of the residence or lessee of record;

(4) Order the respondent to stay away from the residence, school, or place of employment of the petitioner, or any specified place frequented by the petitioner and any designated family or household member;

(5) Seize and prohibit the respondent from using or possessing a firearm or other weapon specified by the court;

(6) Order possession of the parties' residence and use of or ownership of any vehicle and other essential personal effect, regardless of the ownership, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, vehicle, and other personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(7) Prohibit the destruction, liquidation or disposal of any and all joint assets or property and any and all specific assets or property of the petitioner;

(8) Grant temporary custody of any minor children to the petitioner, including custody to any petitioner currently residing in a shelter or safe home; and

(9) Order such other relief as it deems necessary to provide for the safety and welfare of the petitioner and any designated family or household member.

(c) The court may grant the following relief in an order for protection or a modification of an order after notice and hearing, whether or not the respondent appears:

(1) Grant the relief available in accordance with subsection 2;

(2) Specify arrangements for visitation of any minor child by the respondent and require supervision of that visitation by an independent third party or deny visitation if necessary to protect the safety of the petitioner and/or child;

(3) In specifying visitation arrangements, the court shall consider the respondent's overall lifestyle, especially as it pertains to alcohol and other chemical use;

(d) Order the respondent to pay any special legal fees.

(e) Order the respondent to:

(1) Pay rent or make payment on a mortgage on the petitioner's residence and pay for the support of the

petitioner and minor child if the respondent is found to have a duty to support the petitioner or minor child-,

(2) Reimburse the petitioner or other person for any expenses associated with the domestic violence incident, including but not limited to medical expenses, counseling, shelter, and repair or replacement of damaged property- and

(3) Pay any costs and fees incurred by the petitioner in bringing the action;

(d) The court shall:

(1) Cause the order to be delivered to the Tribal Police Department or other appropriate person or agency for service;

(2) Make reasonable efforts to ensure that the order for protection is understood by the petitioner, and the respondent, if present;

(3) Transmit, by the end of the next business day after the order is issued, a copy of the order for protection to the local law enforcement agency or agencies designated by the petitioner; and

(4) Transmit a copy of the order to the appropriate entity for placement in the tribal registry.

(f) An order for protection issued ex parte or upon notice and hearing, or a modification of an order for protection issued ex parte or upon notice and hearing, is effective until further order of the court. If an ex parte order is entered, a hearing shall be scheduled within 35 days to allow the Respondent to respond to the petition. It shall be noted in bold or capital letters on the ex parte order:

(1) Advising the respondent that, "If a permanent order for protection is granted at a hearing, this ex parte order shall remain in effect until service is completed of the permanent order for protection."

(2) Advising the respondent that, "If the Respondent fails to appear at the hearing on a permanent order for protection, the court may issue a default judgement granting the relief requested; any failure to appear on the

part of the Respondent shall not be used as a defense by the respondent of violation of rights.

(g) The Sac and Fox Police Department through the Chief of Police shall provide expedited service for orders for protection.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 305]

**Section 306. Issuance of permanent orders for protection; duration of order; expiration date required.**

Any permanent order for protection issued under this chapter upon notice and opportunity to appear shall be issued for a period of not less than three (3) years. In the discretion of the Court, a permanent order for protection may be issued for a longer period of time, up to the projected lifespan of the petitioner. For the purpose of Full Faith & Credit compliance and enforcement, all such extended orders must include an expiration date, whether figured by actual length of the order or from projected lifespan of the petitioner.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 306]

**Section 307. Required hearings; service; duty of court when order for protection denied.**

(a) Except as otherwise provided in subsection 2, if a court issues an order for protection ex parte or a modification of an order for protection ex parte and the court provides relief pursuant to subsection 2 of Section 305, the court shall set a date for a permanent order for protection hearing regarding the ex parte order for protection within 35 days. If personal service cannot be completed, the court shall notify the respondent by mail, at the last and best known address of the respondent and/or petitioner, of the date and time of the hearing for a permanent order for protection.

(b) Upon approval of an ex parte order, the civil clerk of courts shall set a hearing date scheduled for within 14 days and



immediately serve the petitioner regardless of the involvement or lack of involvement of an advocate.

(c) If applicable, the respondent shall be served upon arraignment on any related charge(s). The civil clerk of courts shall be responsible for forwarding a copy of the ex parte order to the jail for service before the respondent's release on any related charge(s).

(d) In the event that service is not successful, the judge shall ask the petitioner, under oath at the hearing for the permanent order for protection, if s/he believes the respondent is avoiding service by concealment or otherwise, and does not know the respondent's whereabouts or current residence. If the petitioner so states, the judge shall direct the civil clerk of courts to set another hearing date within 35 days and to initiate service by mail to the last and best known address of the respondent. Any ex parte order shall remain in effect per provision of Section 305, subsection 5, above.

(e) At a second hearing for a permanent order for protection and in the event the respondent again does not appear, regardless of service, the judge shall issue a permanent order for protection, if warranted, and grant relief as the court deems appropriate.

(f) At a second hearing for a permanent order for protection and having made reasonable efforts to contact the respondent, and in the event the petitioner requests or the court provides relief in accordance with paragraph (h), subsection 2, of Section 305, concerning custody of a minor child or the petitioner requests relief pursuant to paragraph (b), (c), or (d) of subsection 3 of Section 305, such a hearing determining the above cited relief must be given precedence over all matters including older matters of the same character and involving the same petitioner and respondent.

(g) In a hearing held pursuant to subsection 1 or 2 of this section:

(1) Relief in accordance with section 305 is available; and

(2) If the petitioner seeks further relief concerning an issue not outlined by the ex parte order for protection, the court may grant the relief or continue the hearing, or

the petitioner may be granted a continuance to allow time to file a petition for modification of the order.

(h) Whether or not the respondent has been arrested or charged with domestic violence, the judge shall order the respondent to participate in the Sac and Fox's domestic violence offender's program.

Further, should the court determine that an assault has occurred or the threat of assault has occurred, the judge shall notify the tribal prosecutor for follow-up and possible investigation.

(1) The Sac and Fox domestic violence offender's program shall be responsible for initiating a civil contempt action should the respondent fail to comply with court-ordered participation as outlined in this subsection.

(2) Completion, or partial completion, of the Sac and Fox offender's program, as ordered under this section, shall not be substituted to meet any subsequent or existing sentencing condition imposed under any other section of this code.

(i) The Sac and Fox Police Department shall expedite service of permanent orders for protection. If the respondent is not able to be served in person after 30 days, the Tribal Police Department shall notify the clerk of courts and the permanent order for protection shall be mailed to the last and best known address of the respondent.

(j) Any person against whom a permanent order for protection is granted under subsection 5 above may petition the court for reconsideration of the order for protection upon a showing, by clear and convincing evidence, that the respondent did not willingly and knowingly evade service and that there is a meritorious defense to the action. Upon such a showing, the court may grant another ex parte order to protect the petitioner and immediately schedule a hearing within 35 days. The respondent shall be served with a copy of the ex parte order at the same time the respondent's petition is granted.

(k) If the court denies a petition for an order for protection or a petition to modify an order for protection that is requested without notice to the respondent, the court shall inform the petitioner, in person or by mail, of his or her

continuing right to request a hearing upon notice to the respondent. The court must state in the court record why the request was denied.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 307]

**Section 308. Petitioner aiding and abetting violation of order for protection.**

If a respondent is excluded from the residence of or ordered to stay away from the petitioner, an invitation by the petitioner to the respondent, and any acceptance of that invitation, does not waive or nullify an order for protection. However, the petitioner may be considered by such invitation as having aided in the violation, or be subject to arrest for aiding or assisting in a violation of, his/her own ex parte or permanent order of protection.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 308]

**Section 309. Denial of relief prohibited.**

The continuing safety of the petitioner shall be the primary factor of consideration for petitions for relief under this chapter. The court is prohibited from:

(a) Denying a petitioner relief requested pursuant to Sections 305 or 306 solely because of a lapse of time between an act of domestic violence and the filing of the petition; or

(b) Denying a petitioner relief requested pursuant to Sections 305 or 306 solely because of ex parte contentions, gossip, or allegations made by the respondent or his family and disparaging of the character or lifestyle of the plaintiff.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 309]

**Section 310. Mutual orders for protection.**

A court may grant a mutual order for protection, ex parte or permanent, to opposing parties.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 310]

**Section 311. Court-ordered and court-referred mediation of cases involving domestic violence prohibited.**

A court shall not order parties into mediation or any type of counseling, alternative justice, restorative justice, peace-making, circle sentencing, traditional ceremonies, or any other mediation type of situation that would put the petitioner in the position of dealing directly with the respondent, even if the petitioner has the right to refuse to participate, for resolution of the issues in a petition for an order for protection.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 311]

**Section 312. Court costs and fees.**

Fees to cover costs associated with the filing of a petition for a domestic abuse protection order or the issuance or service of a domestic abuse protection order seeking only the relief provided by the Sac and Fox Nation of Missouri in Kansas and Nebraska Domestic Violence Code shall not be charged, except that the Court may assess such fees and costs if the court finds, by clear and convincing evidence, that the statements contained in the petition were false and that the protection order was sought in bad faith. At the final hearing, the Court may assess costs associated with the filing of a petition for a protection order or the issuance or service of a protection order seeking only the relief provided by the Domestic Violence Code against the Respondent.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 312]

**Section 313. Court responsibilities; notification of assistance available to victims of domestic violence.**

The court shall inform any petitioner for relief under this chapter about local services and advocacy available through the Sac and Fox Social Services Department without regard to the victim's employment, economic, educational, mental or physical health, social, or political status.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 313]

**Section 314. Enforcement of foreign orders for protection.**

(a) A copy of an order for protection issued by another tribal, state, county, or other court jurisdiction, shall be given full faith and credit by Sac and Fox Nation of Missouri in Kansas and Nebraska tribal law enforcement authorities as having the same force and effect as one issued by the Sac and Fox Tribal Court.

(b) Law enforcement officers shall attempt to verify the existence and/or validity of any foreign order for protection by any means available. In the event that the victim does not have a copy of the order, the officer cannot verify the order or the copy is not clear enough to determine its validity, the officer should arrest the subject on an applicable violation of the Sac and Fox Tribal Code or applicable state law and shall assist the victim in obtaining verification of the order and/or explaining the procedure for obtaining an Order for Protection. The law enforcement officer shall also offer other assistance as provided in Section 204.

(c) Valid foreign orders for protection shall be upheld as to the conditions of the foreign order whether or not those remedies or conditions are available through the Sac and Fox Tribal Code.

(d) Under this section, the court shall utilize the penalties and procedures provided in Chapter 2 for the enforcement of orders for protection.

(e) In accordance with Section 206, any violations of a foreign order for protection shall be acted upon in the same manner as if the order for protection were issued by the Sac and Fox Tribal Court and in accordance with the full faith and credit provisions of Title 18 U.S.C. § 2265.

(f) Law enforcement and criminal justice system personnel shall enter valid foreign orders for protection in the tribal registry.

(g) Law enforcement and criminal justice system personnel shall encourage persons possessing foreign orders for protection to file the foreign order with the tribal registry and with the Sac and Fox Tribal District Court.

(h) Facsimile copies which meet the requirements of Title 18, United States Code, Section 2265 shall be recognized as valid verification of foreign orders for protection for the purpose of enforcement under this section.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 314]

**Section 315. Tribal registry for orders for protection.**

(a) To ensure the proper and timely enforcement of all Sac and Fox Tribal Court orders for Protection, and any foreign orders falling within its purview and jurisdiction, the Sac and Fox Tribal Court shall provide for a registry of all orders for protection issued by or registered with the Sac and Fox Tribal Court. The clerk of court shall provide the Public Safety dispatch centers for tribal and state law enforcement agencies located in Brown County, Kansas and Richardson County, Nebraska with certified copies of orders for protection within the same day of issuance.

(b) The court shall coordinate with, and ensure any Sac and Fox tribal orders for protection are submitted to any other registries, whether federal, state, tribal, or local, for the purpose of enhancing full faith and credit enforcement of all orders for protection, including provisions to enter the order for protection in the National Crime Information Center (NCIC) database, if available.

(c) The clerk of court shall also immediately provide the dispatch centers and designated registry with certified copies and information concerning any modifications, revocations, withdrawals, and/or expired orders for protection.

(d) The court shall provide that information contained in the registry shall be available on a 24-hour basis to any court, law enforcement agency, or domestic violence program.

(e) Facsimile copies which meet the requirements of Title 18, United States Code, Section 2265 shall be recognized as valid and official copies for the purpose of entry into the registry.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 315]

**Section 316. Specific Applicability.**

The provisions of this chapter apply specifically to this domestic violence code and take precedence over any general laws of applicability.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 316]

## CHAPTER FOUR

## FAMILY AND CHILDREN

**Section 401. Presumptions concerning custody.**

In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that domestic violence has occurred raises a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of domestic violence. It is irrelevant, in determining whether the presumption applies, that the domestic violence occurred in the presence or outside the presence of the child.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 401]

**Section 402. Factors in determining custody and visitation.**

(a) In addition to other factors that a court must consider in a proceeding in which the custody of a child or visitation by a parent is at issue and in which the court has made a finding of domestic violence:

(1) The court shall consider as primary the safety and well-being of the child and of the parent who is the victim of domestic violence;

(2) The court shall consider the domestic violence perpetrator's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault, to another person; and

(3) The court shall also consider the perpetrator's overall lifestyle, including alcohol or other chemical use, in determining custody and/or visitation.

(b) If a parent is absent or relocates because of an act of domestic violence by another, the absence or relocation is not a factor that weighs against the parent in determining custody or visitation.

(c) In any application for emergency ex parte custody, or permanent custody, of any child or children, the court shall



entertain any information concerning, and make every effort to determine:

(1) If the petitioner for custody has been recently arrested and/or convicted of a domestic violence offense;

(2) If the petitioner for custody has been recently named as the respondent in a domestic violence order for protection; and

(3) If the petitioner for custody has been recently served with a divorce petition, divorce modification, child custody order, child support enforcement order, modification of an order for protection, or any other court order initiated by the respondent to the petition for custody.

(d) If any situation outlined in subsection (c) above is found to exist, the court must examine whether the petitioner's motion for custody has been submitted in retaliation against a victim of domestic violence and as part of a continuing pattern of violence, abuse, harassment, intimidation, and/or other controlling behavior. If the court determines that such retaliation and continuing pattern of controlling behavior is likely, the court shall not grant the petition for custody, emergency ex parte or permanent, until such time as a hearing may be held on the petition.

(e) Pursuant to subsection (d) above, and barring any overwhelming articulated and immediate need to provide emergency measures for the safety of the child(ren), the court may order that the child(ren) in question remain with the custodial parent, that the child(ren) be placed with a neutral relative, or that the child(ren) be placed in interim foster care until the hearing, such hearing to be held within 72 hours.

(f) Pursuant to subsection (e) above, the court shall order an investigation be conducted, and report filed, by child protection services or a court-appointed child advocate, concerning the specific grounds for the emergency ex parte or permanent custody petition. The investigation and report shall be expedited to be available for the ordered hearing.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 402]

**Section 403. Presumptions concerning residence of child.**

(a) In every proceeding where there is at issue a dispute as to the custody of a child, a determination by a court that domestic violence has occurred raises a rebuttable presumption that it is in the best interest of the child to reside with the parent who is not a perpetrator of domestic violence, in the location of that parent's choice, within or outside the confines of the Sac and Fox Indian Reservation.

(b) The court shall exclude, in such proceedings, any consideration that the petitioner may or may not be currently residing in a shelter or safe home. Should shelter or safe home residence of the petitioner be presented by the respondent as grounds to deny custody, the court shall proceed with the presumption that a shelter or safe home, by definition and operating procedures, is a safe, stable and non-violent environment for the child(ren), equally or more suitable than the place where the perpetrator resides.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 403]

**Section 404. Change of circumstances.**

In every proceeding in which there is at issue the modification of an order for custody or visitation of a child, the finding that domestic violence has occurred since the last custody determination constitutes a finding of a change of circumstances.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 404]

**Section 405. Conditions of visitation in cases involving domestic violence.**

(a) A court may award visitation by a parent who committed domestic violence only if the court finds that adequate provision for the safety of the child and the parent who is a victim of domestic violence can be made.

(b) In a visitation order, a court may:

(1) Order an exchange of a child to occur in a protected setting.

(2) Order visitation supervised by an independent third person or agency.

(3) Order the perpetrator of domestic violence to attend and complete, to the satisfaction of the court, a program of intervention for perpetrators as a condition of visitation.

(4) Order the perpetrator of domestic violence to attend and complete, to the satisfaction of the court, a program for chemical dependency.

(5) Order the perpetrator of domestic violence to abstain from possession or consumption of alcohol or controlled substances during the visitation and the 24 hours preceding the visitation.

(6) Order the perpetrator of domestic violence to pay a fee to defray the costs of supervised visitation.

(7) Prohibit overnight visitation.

(8) Require a bond from the perpetrator of domestic violence for the return and safety of the child.

(9) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of domestic violence, or other family or household member.

(c) Whether or not visitation is allowed, the court may order the address of the child and the victim to be kept confidential.

(d) The court may refer but shall not order that a victim of domestic violence attend specialized counseling or seek specialized victim support services relating to the victim's status or behavior as a victim, as a condition of receiving or continuing custody of a child, or as a condition of visitation.

(e) Supervised visitation shall be conducted by an independent third party as approved jointly by the court and the victim.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 405]

**Section 406. Specialized visitation center for victims of domestic violence.**

(a) The Sac and Fox Department of Social Services may provide for visitation centers for victims of domestic violence and their children to allow court ordered visitation in a manner that protects the safety of all family members. The Sac and Fox Department of Social Services shall coordinate and cooperate with local governmental agencies in providing the visitation centers.

(b) A visitation center must provide:

(1) A secure setting and specialized procedures for supervised visitation and the transfer of children for visitation; and

(2) Supervision of visitation by a person trained in security and the avoidance of domestic violence.

(c) The Sac and Fox Department of Social Services may issue policies, guidelines, limitations and procedures for the visitation center including but not limited to hours and specific services provided, location of the visitation center, whether any transportation will be provided or not, and what fees will be charged for the use of the visitation center.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 406]

**Section 407. Mediation prohibited in cases involving domestic violence.**

The court shall not order parties into mediation or any type of counseling, alternative justice, peace-making, circle sentencing, traditional ceremonies or any other mediation type of situation that would put the petitioner in the position of dealing directly with the respondent for resolution of the issues in a petition for custody, even if the petitioner has the right to refuse to participate.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 407]

**Section 408. Duties of juvenile court.**

(a) Within 120 days of the enactment of this Domestic Violence Code, the Sac and Fox Tribal Court shall develop written procedures, when abuse or neglect of a child is involved, to assess whether abuse of another family or household member is also occurring. The assessment must include but is not limited to:

(1) Inquiry concerning the criminal record of the parents, and the alleged abusive or neglectful person and the alleged perpetrator of domestic violence, if not a parent of the child; and

(2) Inquiry concerning the existence of orders for protection issued to either parent.

(b) The Sac and Fox Tribal Court shall utilize the Sac and Fox Department of Social Services, Kansas Department of Children and Family, Nebraska Department of Health and Human Services or any relevant tribal children's social or protective services in conducting the assessment.

(c) If it is determined in an investigation of abuse or neglect of a child:

(1) That the child or another family or household member is in danger of domestic violence, and that removal of one of the parties is necessary to prevent the abuse or neglect of a child, the Sac and Fox Tribal Court shall seek the removal of the alleged perpetrator of domestic violence.

(2) That a parent of the child is a victim of domestic violence, services must be offered to the victimized parent and the provision of such services must not be contingent upon a finding that either parent is at fault or has failed to protect the child.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 408]

**Section 409. Specific Applicability.**

The provisions of this chapter apply specifically to this domestic violence code and take precedence over any general laws of applicability.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 409]

## CHAPTER FIVE

## PREVENTION AND INTERVENTION

Section 501. Public health plan for reducing violence.

(a) The Sac and Fox Social Services Department shall:

(1) Assess the impact of domestic violence on the public's health;

(2) Develop a written public health plan for reducing the incidence of domestic violence within the tribal community;

(b) The public health plan:

(1) Must include but is not limited to public education, including use of the various communication media to set forth the public health perspective on domestic violence;

(2) Must be developed in consultation with public and private agencies that provide programs for victims of domestic violence, advocates for victims, and persons who have demonstrated expertise and experience in providing health care to victims of domestic violence and their children; and

(3) Must be completed within 120 days of the enactment of this Domestic Violence Code.

(c) The Department of Social Services shall:

(1) Transmit a copy of the public health plan to the Tribal Council; and

(2) Annually review and update the plan.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 501]

**Section 502.     Standards for health care facilities, practitioners, and personnel; specialized procedure and curricula concerning domestic violence.**

(a) Within 120 days of the establishment of an Indian Health Service Facility on the Sac and Fox Reservation, the Indian Health Service, in conjunction with the Sac and Fox Social Services Department shall promulgate standards for health care facilities, practitioners, and personnel in the facilities, including specialized procedure and staff training curricula concerning domestic violence.

(b) The procedures and curricula must be developed in consultation with public and private agencies that provide programs for victims of domestic violence, advocates for victims, and persons who have demonstrated expertise and experience in providing health care to victims of domestic violence and their children.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 502]

**Section 503.     Notice of rights of victims and remedies and services available; required information.**

(a) All Indian Health Service clinics and hospitals, and any other health care facility operating within the Sac and Fox Indian Reservation, shall make available to practitioners and health care facilities a written notice of the rights of victims, and remedies and services available to victims of domestic violence in accordance with subsection (c) herein.

(b) A practitioner who becomes aware that a patient is a victim of domestic violence shall provide to that patient, and every health care facility shall make available to all patients, the notice provided pursuant to subsection (a).

(c) The notice to victims of domestic violence must be substantially as follows:

"If you are a victim of domestic violence and you believe that law enforcement protection is needed for your physical safety, you have the right to request that an officer assist in providing for your safety, including asking for an emergency order for protection. You may also request that the officer



assist you in obtaining your essential personal effects and locating and taking you to a safe place, including but not limited to a shelter, family member's or a friend's residence, or a similar place of safety.

If you are in need of medical treatment, you have the right to request that the officer assist you in obtaining medical treatment. You may request a copy of the police report from the Sac and Fox Tribal Police Department who shall provide it at no cost to you.

You may ask the prosecutor to file a criminal complaint. You also have the right to file a petition in the Sac and Fox Tribal Court requesting an order for protection from domestic violence, which could include any of the following orders:

(1) An order enjoining your abuser from threatening to commit or committing further acts of domestic violence;

(2) An order prohibiting your abuser from harassing, annoying, telephoning, contacting or otherwise communicating with you, directly or indirectly;

(3) An order removing your abuser from your residence, regardless of ownership of the residence or lessee of record;

(4) An order directing your abuser to stay away from your residence, school, place of employment, or any other specified place frequented by you and another family or household member;

(5) An order prohibiting your abuser from using or possessing any firearm or other weapon specified by the court;

(6) An order granting your possession and use of the automobile and other essential personal effects, regardless of ownership;

(7) An order granting you custody of your child or children;

(8) An order denying your abuser visitation;

(9) An order specifying arrangements for visitation, including requiring supervised visitation; and

(10) An order requiring your abuser to pay certain costs and fees, such as rent or mortgage payments, child support payments, medical expenses, expenses for shelter, court costs, and attorney's fees.

The forms you need to obtain an order for protection are available from the Sac and Fox Social Services Department and/or the clerk of court. The services of Sac and Fox Social Services are available to assist you in obtaining information relating to domestic violence, treatment of injuries, community resources, community services, and places of safety and shelter. You also have the right to seek reimbursement for losses suffered as a result of the abuse, including medical and moving expenses, loss of earnings or support, and other expenses for injuries sustained and damage to your property. This can be done through tribal court."

(d) The written notice:

(1) Must not include the addresses of shelters, but should include all pertinent contact numbers; and.

(2) Must be provided in the native language of the victim, if practicable, when the first language of the victim is not English.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 503]

**Section 504. Health care providers required to provide certain information to pregnant women and parents.**

Midwives, clinics, and hospitals shall provide information concerning domestic violence to any woman who is pregnant, parents of newborn infants, and to parents of hospitalized minors. The information must include but is not limited to domestic violence victim services, the effect of domestic violence on children, and available services for the prevention and intervention of domestic violence.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 504]

**Section 505. Regulation of programs for intervention for perpetrators; required provisions; duties of providers.**

(a) Within 180 days of the enactment of the Domestic Violence Code, the Sac and Fox Probation Department shall promulgate rules or regulations for programs of intervention for perpetrators of domestic violence, including the Domestic Violence offender's program. The rules or regulations must be promulgated after consultation with public and private agencies that provide programs for victims of domestic violence and programs of intervention for perpetrators, with advocates for victims, and with persons who have demonstrated expertise and experience in providing services to victims and perpetrators of domestic violence and their children.

(b) The rules or regulations must include:

(1) Standards of treatment for programs of intervention;

(2) Criteria concerning a perpetrator's appropriateness for the program;

(3) Systems of communication and evaluation among the referring court, the public and private agencies that provide programs for victims of domestic violence, and the programs of intervention for perpetrators; and

(4) Required education and qualifications of providers of intervention.

(c) The standards for treatment must include but are not limited to the following principles:

(1) The focus of the program must be stopping the acts of violence and ensuring the safety of the victim and children or other family or household members;

(2) Recognition that violence is a behavior for which the perpetrator must be held accountable; and

(3) Recognition that substance abuse is a problem separate from domestic violence and which requires specialized treatment.

(d) Providers of programs of intervention for perpetrators:

(1) Shall inform a perpetrator who is court-ordered into or who has voluntarily registered with the program that:

(i) The program will inform the victim and victim's advocates that the perpetrator is in treatment with the provider, and will provide information concerning safety issues to the victim and victim's advocates;

(ii) The program will require that the perpetrator authorize prior and current treatment or service agencies to provide information about any prior or current treatment history; and

(iii) The program may provide information about the perpetrator to appropriate criminal justice entities, including courts, probation officers, parole officers, and children's protective services, in compliance with the laws of the Sac and Fox Nation of Missouri in Kansas and Nebraska and any court-ordered conditions.

(2) Shall report to the court and the victim any assault occurring in conjunction with the program, failure to comply with the program, failure to attend the program, and threat of harm to self or others made by the perpetrator.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 505]

**Section 506. Continuing education for law enforcement officers concerning domestic violence; content of course.**

(a) The Sac and Fox Police Department must provide initial education to all prospective and newly-hired law enforcement officers, detention officers, dispatchers, and supervisors, including those who have not had prior mandatory training concerning domestic violence, in accordance with Section 234 of this code.

(b) The Sac and Fox Police Department shall provide continuing education and mandatory refresher training on

appropriate domestic assault response to law enforcement officers and supervisors each year.

(c) Any Bureau of Indian Affairs (BIA) criminal investigators and/or Sac and Fox Police Department criminal investigators, whose responsibility is the investigation of misdemeanor and/or felony investigations of crimes occurring on the Sac and Fox Indian Reservation, shall adhere to the training requirements of subsections (a) and (b) above.

(d) The course of instruction and the objectives of training required pursuant to subsections (a) and (b) must be developed and presented in consultation with public and private providers of programs of service for victims of domestic violence and programs of intervention for perpetrators, persons who have demonstrated expertise in training and education concerning domestic violence as it relates to Sac and Fox culture, and the implementation of a coordinated systems and community response to enhance the safety and respect for Sac and Fox women and families on the Sac and Fox Indian Reservation.

(e) The course of instruction must include but is not limited to:

(1) The investigation and management of cases involving domestic violence and writing of reports in such cases;

(2) The nature, extent, and causes of domestic violence;

(3) Practices designed to promote the safety of the victims of domestic violence and other family and household members, including safety plans;

(4) The legal rights and remedies available to victims of domestic violence, including but not limited to victim rights, compensation for victims of crime, and enforcement of civil and criminal remedies;

(5) The services available to victims of domestic violence and their children;

(6) Sensitivity to cultural, racial, and sexual orientation issues and the effect of cultural, racial and gender bias on the response of law enforcement officers and the enforcement of laws relating to domestic violence; and

(7) The provisions of the Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Code and any other laws and statutes applicable to the enforcement of this code.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 506]

**Section 507. Continuing education of judges and court personnel; prosecutors; content of course.**

(a) The Sac and Fox Tribal Court shall develop and present courses of continuing education concerning domestic violence for judicial officers, prosecutors, and other court personnel for the purpose of compliance with the provisions of Section 234 of this code.

(b) The courses must be prepared and presented in consultation with public and private agencies that provide programs for victims of domestic violence and programs of intervention for perpetrators, and advocates for victims.

(c) Each judicial officer or court employee who comes into contact with either party or is involved in any aspect of domestic violence cases must have initial education in domestic violence and annual refresher training.

(d) The courses must include but are not limited to the following topics:

(1) The nature, extent, and causes of domestic violence;

(2) Practices designed to promote safety for the victim and other family and household members, including safety plans;

(3) Resources available for victims and perpetrators of domestic violence;

(4) Sensitivity to gender bias and cultural, racial, and sexual orientation issues;

(5) The lethality of domestic violence;

(6) Sections 235 and 236 of this code;

(7) Proper use of relevant forms and orders applicable to this code; and

(8) The provisions of the Sac and Fox Tribal Code and any other laws and statutes applicable to the enforcement of this code.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 507]

**Section 508. Continuing education for tribal employees who work with domestic violence cases and required to report abuse and neglect of children.**

(a) The Sac and Fox Department of Social Services shall provide courses of continuing education on domestic violence issues for tribal employees who:

- (1) Work with cases of domestic violence; and
- (2) Are required by law to report abuse or neglect of children.

(b) The courses must be prepared and presented in consultation with public and private agencies that provide programs for victims of domestic violence and programs of intervention for perpetrators, and advocates for victims.

(c) The courses must include but are not limited to the following topics:

- (1) The nature, extent, and causes of domestic violence;
- (2) Practices designed to promote safety of the victim and other family and household members, including safety plans;
- (3) Resources available for victims and perpetrators of domestic violence;
- (4) Sensitivity to gender bias and cultural, racial, and sexual orientation issues; and
- (5) The lethality of domestic violence.

(d) As used in this section, tribal employees working with cases of domestic violence include:

- (1) Tribal probation officers;
- (2) Workers in child protective services;
- (3) Social workers;
- (4) Advocates;
- (5) Community health representatives;
- (6) Emergency medical services personnel; and
- (7) Chemical Dependency personnel.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 508]

**Section 509. Continuing education for attorneys.**

(a) In order to practice in any domestic violence proceeding in Sac and Fox Tribal Court, attorneys or legal advocates must have reviewed and familiarized themselves with the Sac and Fox Domestic Violence Code.

(b) Attorneys and advocates are strongly encouraged to complete continuing legal education courses on domestic violence issues. Such courses should be prepared and presented in consultation with persons who have demonstrated expertise and experience in providing legal assistance to victims and perpetrators of domestic violence, and advocates for victims.

(c) Such courses include but are not limited to the following topics:

- (1) The nature, extent, and causes of domestic violence;
- (2) Practices designed to promote the safety of the victim and other family and household members, including safety plans;
- (3) Resources available for victims and perpetrators of domestic violence;



(4) Sensitivity to gender bias and cultural, racial, and sexual orientation issues;

(5) The lethality of domestic violence; and

(6) The Sac and Fox domestic violence code and any other applicable laws, regulations, or statutes.

(d) The requirements of this Section 509, may be waived by the Tribal District Judge.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 509]

**Section 510. Required curricula for Indian Reservation education system.**

(a) The Sac and Fox Social Services Department, Education and Enrollment directors and Tribal Council may select or develop:

(1) Curricula for pupils concerning domestic violence that are appropriate for various ages; and

(2) Curricula for school counselors, school health-care personnel, administrators, and teachers concerning domestic violence.

(b) The curricula must be selected or developed in consultation with public and private agencies that provide programs for victims of domestic violence and programs of intervention for perpetrators of domestic violence, advocates for victims, and persons who have demonstrated expertise and experience in education and domestic violence.

(c) The curricula may include:

(1) The nature, extent, and causes of domestic violence;

(2) Issues of domestic violence concerning children;

(3) The prevention of the use of violence by children;

(4) Sensitivity to gender bias and cultural, racial, and sexual orientation issues;

(5) Violence in dating and other social relationships of boys and girls;

(6) Practices designed to promote safety for the victim and other family and household members, including safety plans;

(7) Relevant provisions of the Sac and Fox Domestic Violence Code and any other applicable laws, regulations or statutes; and

(8) Information on available resources for victims of domestic violence or those residing in a domestic violence home environment.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 510]

**Section 511. Continuing education for school personnel who are required to report abuse and neglect of children.**

(a) The Sac and Fox Department of Social Services may provide courses of continuing education concerning domestic violence for employees who are required by law to report abuse or neglect of children.

(b) The courses must be prepared and presented in consultation with public and private agencies that provide programs for victims of domestic violence, persons who have demonstrated expertise in education and domestic violence and advocates for victims.

(c) The courses may include the following topics:

(1) The nature, extent, and causes of domestic violence;

(2) Practices designed to promote safety of the victim and other family and household members, including safety plans;

(3) Issues of domestic violence concerning children;

(4) Sensitivity to gender bias and cultural, racial, and sexual orientation issues;

(5) The lethality of domestic violence; and

(6) Relevant provisions of the Sac and Fox Domestic Violence Code and any other applicable laws, regulations or statutes.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 511]

**Section 512. Initial training; Sac and Fox Domestic Violence Code provisions.**

Upon enactment of the Sac and Fox Domestic Violence Code, and within ninety (90) days of the Code's effective date, the Tribal Court shall provide training agendas for the immediate training of all Sac and Fox Police Department Tribal Court, Office of the Tribal Prosecutor, and Social Services Department personnel on the provisions of the Domestic Violence Code. The training agendas shall provide for the completion of such training within 180 days from the effective date of this Code. Once approved by the Tribal Court, all named agencies shall coordinate with the Court Administration and designated training personnel to effectively get all their employees trained within the required 180 days.

All other training and curricula required under this chapter shall be initiated within one (1) year of the effective date of the Code, unless otherwise provided for under this chapter.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 512]

**Section 513. Specific Applicability.**

The provisions of this chapter apply specifically to this domestic violence code and take precedence over any general laws of applicability.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 513]

## CHAPTER SIX

## STALKING

**Section 601. Purpose.**

The stalking provision of the Sac and Fox Domestic Violence Code is construed to promote the fact that the active stalking of victims and family members is a basic and often primary activity used by domestic violence offenders to establish, or re-establish, control over domestic violence victims. Through the pursuit or following of the victim by the perpetrator, the risk to the victim of being physically assaulted by the stalker is greatly increased. The goal of this section is in keeping with the overall purpose of the Sac and Fox Tribal Code - to provide safety and protection to victims, potential victims, and to set standards of behavior within the family that are consistent with traditional Sac and Fox values.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 601]

**Section 602. Definitions.**

Unless the context otherwise requires, as used in the Domestic Violence Code:

(a) "Credible threat" means a verbal or written threat, or a threat implied by a pattern of conduct, or combination of such verbal/written statements and conduct, either directly or through a third party, made with the intent to place the person who is the target of the threat in reasonable fear of his/her safety. The main standard for establishing a credible threat is the victim's perception of a threat to his/her safety. The second criteria will be the apparent ability of the defendant to carry out the threat, whether verbal, written, or implied through a willful pattern of conduct. The third standard is the ability to identify and relate a pattern of corroborated stalking behavior.

(b) "Harass" means a knowing and willful pattern of conduct directed at a specific person, either directly or through a third party, which seriously alarms, annoys, torments, or terrorizes the person, and which serves no legitimate purpose. Harassing behavior can include but is not limited to:

- (1) Vandalism;

- (2) Annoying or threatening telephone calls;
- (3) Following or other violations of an order for protection;
- (4) Actual Assaults;
- (5) Sending unwanted letters;
- (6) Sending unwanted messages or threats through third parties;
- (7) Showing up at a victim's home or workplace;
- (8) Attempting to obtain private information about the victim through others;
- (9) Leaving gifts for the victim;
- (10) Disabling or otherwise tampering with the victim's vehicle;
- (11) Taking mail from the victim's mailbox;
- (12) Entering the victim's home or place of residence whether the victim is there or not there;
- (13) Parking near or driving by the victim's residence or workplace for no legitimate reason;
- (14) Using agencies or institutions in a manner that constitutes a pattern of conduct consistent with retaliation or harassment, by initiating investigations, restrictions or sanctions against the victim;
- (15) Following or tracking the location of the Victim;
- (16) Any of the foregoing by electronic means on the internet or otherwise.

(c) "Pattern of conduct" means conduct which has caused the victim to suffer substantial emotional distress or fear. This course of conduct should contain a series of acts carried out by the defendant over a period of time, however short, which demonstrates a continuity of purpose (i.e., to annoy, harass,

follow, etc.), and which would cause a reasonable person to suffer like emotional distress or fear.

(d) "Family" means any spouse, parent, child, stepparent, stepchild, grandparent, grandchild, or significant other person or relative with whom the victim has a familial relationship, or who resides with the victim or any other relationship as defined in Sac and Fox Domestic Violence Code, Section 103.

(e) "Corroborating stalking conduct" means any evidence of harassing behavior, physical evidence at the scene, records, documents, letters, unsubstantiated alibis, recorded messages, police reports, prior stalking convictions, witness information, or any other information, which would indicate a willful pattern of conduct or threat.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 602]

**Section 603. Stalking; Offense defined and penalties.**

(a) Any person who, either directly or through a third party, willfully, maliciously and repeatedly follows or harasses another person, and who is perceived to constitute a credible threat and, by such perception places a person in reasonable fear of his/her safety, or the immediate safety of his/her family, shall be deemed guilty of stalking under this section and chapter. A person who makes a judicial admission of, pleads guilty to, or is found guilty of stalking shall be subject to a penalty of not less than thirty (30) days and not more than sixty (60) days in jail, a fine not to exceed \$500, or both such fine and imprisonment.

(b) Any person making a judicial admission of, pleads guilty to, or is found guilty of stalking, who is sentenced to probation or granted parole, shall be placed under not less than two years probation/parole under supervision of the Sac and Fox Probation Department.

(c) Whoever makes a judicial admission of, pleads guilty to, or is found guilty of a second or subsequent offense, within five (5) years of the first offense, shall be subject to a penalty of not less than ninety (90) days in jail, a fine not to exceed \$500, or both fine and imprisonment.

(d) A judicial admission, guilty plea, or conviction of a second or subsequent stalking offense, involving a credible

threat to the same person within one year, or in violation of a valid order for protection, shall be sentenced to a term of not less than six (6) months in jail, a fine not to exceed \$ 1,000 or both such fine and imprisonment.

(e) In addition to the penalties stated in subsections 1-4 above, any person making a judicial admission, pleads guilty or being found guilty of a violation of this section, will be required to successfully complete the Sac and Fox offender's program.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 603]

**Section 604. Location of stalking perpetrator not bar to prosecution.**

(a) Any harassing or threatening behavior by the perpetrator, which meets the criteria of a credible threat, accomplished either directly or through a third party, and as corroborated through admission, witness testimony, telephone records, electronic data, META data, postmarks, or order/delivery records as being initiated outside the boundaries of the Sac and Fox Indian Reservation, will not bar prosecution under this section. The behavior or conduct shall be considered to be a credible threat when full transmittal of the threat has been completed to the victim, when said victim is within the boundaries of the Sac and Fox Indian Reservation.

(b) Corroborated initial or intervening acts, used to establish a pattern of conduct for the purpose of probable cause under this section, but which occurred outside the boundaries of the Sac and Fox Indian Reservation, may be used to establish and corroborate said stalking conduct for prosecution of a violation under this section. However, individual initial or intervening acts occurring outside the boundaries of Sac and Fox Indian Reservation are not prosecutable as separate offenses under this section.

(c) The present incarceration of the person making the threat shall not bar prosecution under this section.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 604]

**Section 605. Specific Applicability.**

The provisions of this chapter apply specifically to this domestic violence code and take precedence over any general laws of applicability.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 605]



## CHAPTER SEVEN

## FIREARMS DISQUALIFICATION

Section 701. Purpose.

It shall be the purpose of this chapter to prohibit any person who has been convicted of a felony or misdemeanor offense of domestic violence/abuse, as defined under Section 103 of this Domestic Violence Code, under tribal, state or federal law, or any person who is subject to an order of protection based upon a finding that the person represents a credible threat of violence to the victim, under tribal, state or federal law, to possess, own, sell, trade, or have immediate access to a firearm.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 701]

Section 702. Firearm possession, dealing, or access prohibited.

It shall be unlawful for any person to possess, own, sell, trade, or have immediate access to a firearm who:

(a) Is subject to any court order from a court of competent jurisdiction that restrains such person from assaulting, harassing, stalking or threatening a family or household member as defined in Section 103(b), or engaging in any other conduct that would place a family or household member in reasonable fear of bodily injury to the household or family member, except that this paragraph shall apply only to an order that:

(1) Was issued after a hearing, of which such person received actual notice and had the opportunity to participate;

(2) Included a finding that such person represented or represents a credible threat to the physical safety of a household or family member; and

(3) By its terms explicitly prohibits the use, attempted use or threatened use of physical force against another family or household member.

(b) Has been convicted in state, federal or tribal court of any crime involving domestic violence/abuse, as defined in Section 103(a) of this code, which involved the use or attempted use of physical force, or the threatened use of physical force, or the threatened use of a deadly weapon against a household or family member as defined in Section 10(b).

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 702]

**Section 703. Penalties; forfeiture of firearms.**

A violation of Section 702 shall constitute a misdemeanor offense and shall be punishable by 30-60 days in jail, \$500 fine, or both such jail time and fine. In addition, as part of the sentence, the Court may order that any firearm involved in a violation of Section 702 be forfeited to the Sac and Fox Nation of Missouri in Kansas and Nebraska.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 703]

## CHAPTER EIGHT

## DOMESTIC VIOLENCE ADVOCATES AND SHELTERS

**Section 801. Purpose.**

The Tribe recognizes that advocating for those who have been the victims of domestic violence can be a dangerous situation for the advocate because of the potential for violence on the part of the perpetrator.

This Chapter makes it a crime for any person to harass, annoy or intimidate an advocate for a domestic violence victim with the intent to interfere with the rights of the victim of domestic violence to pursue any civil or criminal remedies she may have in a court of law. It also provides for an enhanced penalty for any person committing a crime of violence against an advocate because of his or her advocacy for a victim of domestic violence.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 801]

**Section 802. Harassment of a Domestic Violence Advocate; misdemeanor offense.**

It shall be unlawful for any person to commit the following acts against a domestic violence advocate:

(a) To harass, annoy, intimidate, or make any written or verbal threats to a domestic violence advocate for the purpose of interfering with the right of any victim of domestic violence to obtain a civil protection order or pursue criminal charges against a perpetrator of domestic violence; and/or

(b) To harass, annoy, intimidate, or make any written or verbal threat to a domestic violence advocate which places the advocate in apprehension of bodily injury, in retaliation for that advocate's representation of a domestic violence victim.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 802]

**Section 803. Harassment of a Domestic Violence Advocate; penalties.**

Any person making a judicial admission to, pleading guilty to, or found guilty of a violation of Section 802 of this code shall be guilty of the misdemeanor offense of Harassment of a Domestic Violence Advocate and shall be subject to 30 days in jail, a \$250 fine, and two years domestic violence probation. A person found guilty under this section shall serve the full jail sentence without opportunity for trustee status, weekend service of days, or parole. Daily work release may be granted at the discretion of the court, with due consideration for any danger such release might pose to the advocate or his original victim.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 803]

**Section 804. Enhanced Penalty for Crime of Violence Against Domestic Violence Advocate.**

Any person convicted of a crime of violence against a domestic violence advocate, under the Sac and Fox Nation of Missouri in Kansas and Nebraska Tribal Code, in which the Tribe demonstrates that said crime was committed because of the victim's advocacy on behalf of domestic violence victims, shall in addition to any other penalty provided by tribal law be sentenced to an additional 60 days in jail and ordered to pay a special assessment to the domestic violence advocacy program in the amount of \$500.00. This enhanced penalty shall not be subject to suspension or modification by the Court.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 804]

**Section 805. Specific Applicability.**

The provisions of this chapter apply specifically to this domestic violence code and take precedence over any general laws of applicability.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 805]

## CHAPTER NINE

## DOMESTIC VIOLENCE LEAVE ACT

**Section 901. Purpose.**

Victims of domestic violence are oftentimes forced to flee from a perpetrator in order to avoid further danger and violence. In so fleeing, victims who are employed frequently miss days of employment, and employers often respond by terminating or disciplining such employees. It is the purpose of this chapter to preclude all reservation employers from terminating any employee who can document that an instance of domestic abuse contributed to his/her absence from employment. Employers have the option of granting such employees leave with pay or leave without pay because of domestic violence related absences.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 901]

**Section 902. Disciplinary action for absence of employment due to domestic violence prohibited.**

It shall be a violation of this ordinance for any employer located within the exterior boundaries of the Indian reservation to terminate or otherwise discipline any employee who has missed work, or who is tardy, when such employee demonstrates, either through the filing of criminal or civil proceedings in a court of law, or by such other method satisfactory to the employer, that s/he has been the victim of domestic violence and that such violence contributed to the absence(s) or tardiness from work. In lieu of disciplinary action, the employer shall grant the employee leave with or without pay, dependent upon the policies of the employer, for such absences.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 902]

**Section 903. Penalty for violation.**

Any employer who willfully violates this section shall be subject to a civil penalty of \$5,000.00 payable to the Sac and Fox Nation of Missouri. An employee wrongfully terminated or disciplined in violation of Section 902 of this chapter retains all administrative remedies available under the employer's grievance procedures to address wrongful termination. Nothing in

this section shall preclude a private party from commencing a wrongful termination civil action against an employer for violation of this section.

[History: L. 2015, December 22; R-62-15  
PUBLIC LAW # T 30 § 903]