

Match-E-Be-Nash-She-Wish Band of Pottawatomí Indians

Full Faith and Credit for Personal Protection Orders Ordinance

General Provisions

Section 101. Short Title. This Ordinance may be cited as the “Gun Lake Full Faith and Credit for Personal Protection Orders Ordinance.”

Section 102. No Waiver of Sovereign Immunity. Nothing in this Ordinance waives the sovereign immunity of the Match-E-Be-Nash-She-Wish Band of Pottawatomí Indian Tribe (“Gun Lake Tribe”); its entities; its subsidiaries; or any of its officials, officers, employees, board members, representatives, or agents.

Section 103. Purpose. It is the purpose of this *Ordinance* to ensure that personal protection orders issued by other jurisdictions be honored and enforced by Gun Lake Tribal law enforcement and courts. The Gun Lake Tribe recognizes that federal law, 18 U.S.C. 2265, requires state and tribal courts to honor and enforce personal protection orders entered by each other. This *Ordinance* is enacted to implement this federal law mandate. Furthermore, this *Ordinance* is enacted pursuant to the inherent, sovereign right of the Gun Lake Tribe to enact ordinances for the welfare and protection of all persons on Gun Lake Tribal lands and it is intended to apply to all violations of personal protection orders within the exterior boundaries of Gun Lake Tribal lands.

Definitions

1. “*Ex Parte* Personal Protection Order” means a temporary order issued by a tribal or state court upon written petition alone, without a hearing, which restrains any person, Indian or non-Indian, from harassing, annoying, stalking, contacting, or coming within a certain proximity to another person issued by a court with jurisdiction over the person restrained and subject matter jurisdiction. The order shall also provide for an opportunity for a restrained person to be heard before the issuance of an order of protection.
2. “Personal Protection Order” means an order issued by a tribal or state court which restrains any person, Indian or non-Indian, for a specified period of time, from harassing, annoying, stalking, contacting, or coming within a certain proximity to another person issued by a court with jurisdiction over the person restrained and subject matter jurisdiction. The order may be the result of a civil protection order proceeding.
3. “Issuing Court” means a tribal or state court that issues either an *ex parte* personal protection order or personal protection order.
4. “Enforcing Court” means a tribal or state court that recognizes and enforces an order of protection against a person issued by another tribal or state court.

5. "Full Faith and Credit" means the act of recognizing and enforcing either an *ex parte* personal protection order or order of personal protection from another tribal or state court as if it were the order of the Gun Lake Tribal Court.
6. "Registration" means the act of filing a protection order issued by another tribal or state court with the Gun Lake Public Safety Department.
7. "Central registry of protection orders" means a list of protection orders issued by the state and tribal courts maintained by the Michigan Law Enforcement Information Network (LEIN) containing verifiable methods of identifying the existence of protection orders to be enforced under federal law, 18 U.S.C. § 2265, and identifying the person against whom the protection order is enforceable.

Section 201. Enforcement of Foreign Protection Orders. Whenever any law enforcement officer of the Gun Lake Tribe or the Gun Lake Tribal Court is presented with an order, including an *ex parte* order, or verifies the existence of the order with the court or law enforcement of the issuing jurisdiction, which restrains any person from harassing, annoying, stalking, contacting or coming within a certain proximity to another person that was issued by another tribal or state court, that officer and court shall enforce such order and all provisions of such order. This includes the award of custody and property in the protection order, as if it were issued by the Gun Lake Tribal Court. In enforcing the order of protection, the enforcing court and its law enforcement agencies shall apply all laws and ordinances, including mandatory arrest for violations of protection orders that the enforcing court has in existence at the time enforcement of the foreign protection is sought. Registration of the protection order is not a prerequisite to enforcement under this Ordinance.

Section 202. Role of Law Enforcement in Enforcing This Ordinance. If a law enforcement officer of the Gun Lake Tribe is presented with a protection order, including an *ex parte* order, or verifies the existence of the order with the court or law enforcement of the issuing jurisdiction or by the oral statements made by the protected person under protection, the officer shall enforce the order as if it had been entered by the Gun Lake Tribal Court. This shall include arresting a person violating the order without the necessity of a warrant, if the officer has probable cause to believe the person has violated the personal protection order. The officer shall take all necessary steps to assure the protection of the protected person.

Section 203. Immunity for Good Faith Enforcement of Foreign Protection Order. Any law enforcement official of the Gun Lake Tribe who acts in good faith in enforcing a foreign protection order and its terms shall be immune from suit for wrongful arrest or any other civil or criminal action. This immunity shall extend to a tribal officer who effects the arrest of a non-Indian for violation of a protection order.

Section 204. Role of Tribal Court in Enforcing This Ordinance. The Gun Lake Tribal Court shall enforce a personal protection order, including an *ex parte* order, and all provisions of that personal protection order, including child custody and property provisions, if all the following are satisfied:

1. respondent received notice of the order in compliance with requirements of the issuing jurisdiction;
2. the order remains in effect in the issuing jurisdiction;
3. the issuing court had jurisdiction over the parties and subject matter; and
4. respondent was afforded reasonable notice and the opportunity to be heard prior to the issuance of a personal protection order, or in the case of an *ex parte* order it appears from the face of the order that a hearing will be conducted within reasonable time to allow respondent to raise any defenses that may exist to the issuance of a personal protection order.

Section 205. Violation of Foreign Personal Protection Order. It shall be an offense, punishable by up to 12 months in the tribal jail and/or a fine in the amount of up to \$5,000 for any person to violate a personal protection order. If the person found to have violated a foreign personal protection order is a non-Indian, the Gun Lake Tribal Court may exercise civil jurisdiction over said person and impose whatever civil penalties it determines are consistent with tribal law.

Section 206. Effective Date; Amendments

This Ordinance is effective upon the date of enactment and may be amended only by a duly-enacted resolution of the Tribal Council.

Legislative History

Adopted by Tribal Council Resolution 18-1086 (June 7, 2018)

