

Protections for Native American survivors of domestic violence

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The Violence Against Women Act (VAWA) protects domestic violence survivors of any gender. Learn about the VAWA special protections for Native American survivors.

I need help with a domestic violence situation. What can I do?

The Native American Unit (NAU) of the Northwest Justice Project aims to address the unique legal needs of Native American communities statewide. The NAU might be able to help you if you're a domestic violence victim.

Community organizations can help! If you've experienced domestic violence, harassment, stalking, or sexual assault, or the threat of any of these, get help from your local domestic violence shelter or sexual assault center. Shelters provide safety planning, temporary shelter, legal advocacy, counseling, and other services.

Visit Washington State Domestic Violence Information & Referral (<https://www.domesticviolenceinforeferral.org/domestic-violence-programs>) to search for local programs by county, or for culturally/community specific (https://www.domesticviolenceinforeferral.org/domestic-violence-programs?field_county_value=All&field_program_catagory_tid=1) or Tribal programs (https://www.domesticviolenceinforeferral.org/domestic-violence-programs?field_county_value=All&field_program_catagory_tid=2).

You can call, text, or chat online with advocates 24/7 at any of these:

- National Domestic Violence Hotline (<https://www.thehotline.org/>), 1-800-799-7233
- National Sexual Assault Hotline (<https://rainn.org/help-and-healing/hotline/>), 1-800-656-4673
- StrongHearts Native Helpline (<https://strongheartshelpline.org/>) (a peer support service of the National DV Hotline), 1-844-762-8483

What is VAWA?

The Violence Against Women Act (VAWA) is a federal law that includes protections for Native American and Alaskan Native survivors of domestic violence (<https://www.niwrc.org/policy-center/vawa>).

VAWA has rules that:

- Allow tribes to make and enforce protection orders involving anyone within the Indian tribe's authority (called its jurisdiction).
- Make non-tribal courts honor protection orders from tribal courts (this is called giving the order "full faith and credit").

What is a protection order?

A "protection order" is any state, tribal, or local court order whose purpose is to stop:

- Violent or threatening acts or harassment
- Sexual violence
- Contact or communication with, or getting physically near to, another person

This includes **any** temporary or final order issued by a criminal or non-criminal (civil) court.

If you need help trying to get a protection order, talk to a lawyer right away. You might be able to get legal help from the Native American Unit of the Northwest Justice Project.

When can a tribal court make and enforce protection orders?

Under VAWA, tribal courts can make and enforce **civil** protection orders involving **any person**, Indian or non-Indian, **if both of these are true**:

- Tribal law gives the court jurisdiction to make such an order about the people involved.

- The person you need restrained gets reasonable notice and a chance to be heard. There are special due process and notice requirements that will apply if it's in a tribal nation.

This is different from the criminal authority (jurisdiction) a tribe will need to prosecute someone who has broken (violated) a protection order

(https://www.niwrc.org/sites/default/files/files/reports/new_logo_mmiw_toolkit_poster_update

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What is “Indian Country?”

VAWA states that tribal courts have full civil jurisdiction to make and enforce protection orders. This applies anywhere in the “Indian Country of the Indian tribe” or anywhere otherwise within the tribe’s authority.

This includes:

- **Reservation Lands:** Lands within the boundaries of a federally recognized tribe’s reservation.
- **Trust Lands:** Lands set aside for Indians but not within reservation boundaries.
- **“Dependent Indian Communities:”** land that is federally supervised and set aside for the use of Indians.
- **Allotments:** Federal parcels of tribal trust land allotted to particular Indian persons or families. Parcels in trust or restricted status are Indian country even if they aren’t within a reservation.
- **Other:** Congress can make certain lands Indian country even if they don’t fit one of the categories above.

What is Full Faith and Credit?

It is when one court recognizes and enforces the orders of a court of another jurisdiction. Under VAWA, your protection order is enforceable wherever you are in the United States.

Example of Full Faith and Credit for protection orders: A member of the Spokane Nation seeks a protection order against her ex-spouse, a non-Indian. Both live on the Colville reservation. She gets a valid protection order from the Colville Tribal Court. After getting the order, her ex-spouse gets more threatening. She moves to Yakima to live with family. **Yakima's local courts and law enforcement agencies can enforce her Colville tribal court protection order.**

I have a protection order from my tribal court. Will my protection order still be good if I move off-reservation?

Yes. If the order meets VAWA's requirements, you can have your protection order enforced throughout the United States. It doesn't matter whether the protection order came from a tribal court or a state court.

Protection orders issued by state courts are valid on reservations. Under Washington law, state courts **must** give tribal protection orders full faith and credit.

Some courts may try to make you get a special seal for (certify) your protection order from another jurisdiction before they give it full faith and credit. **This isn't allowed under VAWA.** If this

happens to you, talk to a lawyer.

How do I make sure I can get my protection order enforced wherever I am?

You don't have to do this, but you can choose to file (**register**) your protection order with the court in the county or other jurisdiction you move to. This could make enforcing the order easier.

- **In Washington State**, either you or the court can register a "foreign" protection order (an order issued by another state or Tribe) using the Foreign Protection Order Information Form (<https://www.courts.wa.gov/forms/documents/PO%20008%20Foreign%20Protection%20>) .
- **To register a state protection order in tribal court**, call the tribe directly. The State Tribal Directory (<https://goia.wa.gov/tribal-directory>) has contact info for federally recognized tribes within Washington.
- **To register a tribal protection order in a different tribe's court**: Call the tribe directly. Not all tribal courts will register a tribal protection order from other jurisdictions.

Even if you don't register your protection order, always keep a copy of the original protection order and proof of service with you.

How do I report it when the protection order is violated?

Report any violations of the protection order to your local law enforcement agency. There can be many consequences.

- **In tribal court**, you can file a motion asking the court to hold the other person in contempt for violating the order. After a finding of contempt, the court can order them to do jail time, pay a fine, or both. A tribal prosecutor can file criminal misdemeanor charges against them for violating the protection order.
- **If a state court is enforcing a tribal court order**, and the order says a violation will be a crime, they could be arrested without a warrant, subject to electronic monitoring, or get other penalties for being in contempt of court.

Is there a national tribal registry of protection orders?

Not currently. There is a federal registry for protection orders. But tribal protection orders aren't often listed there.

Some tribes have agreements with neighboring county jurisdictions. These agreements ensure that tribal protection orders are entered into the state and federal registries.

A loved one with a protection order has gone missing. What can I do?

It can be very overwhelming when someone you know is missing. Get information about what to do after a Native woman or Native loved one goes missing.

If you need to report someone missing, don't wait. Call 9-1-1 right away to file a missing person report. You can also file the report with the law enforcement agency in the place where the person was last seen.

WashingtonLawHelp.org gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.