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TITLE 20A

NOOKSACK DOMESTIC VIOLENCE CODE

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**CHAPTER 20A.01
GENERAL PROVISIONS**

20A.01.010 Title.

This Code shall be known as the “Nooksack Domestic Violence Code.”

20A.01.020 Purpose.

The purpose of this Code is to ensure the safety and protection of all victims of domestic violence, both tribal members and non-tribal persons, to ensure the right of the public to a safe and secure community, to protect the community from the effects of violent acts, and to ensure that whenever an offense of Domestic Violence occurs the offender incurs an obligation to the community. This Code recognizes that Domestic Violence comes in many forms, including but not limited to physical, psychological, emotional, and sexual abuse, of a child, spouse, sibling, parent, or of an elder. This Code shall be incorporated and followed to give effect to these purposes.

- A. The purpose of this Code is to protect all persons, elders, children, women, men, disabled persons, and other vulnerable persons, who are within the jurisdiction of the Nooksack Tribe from all forms of domestic abuse as defined by this Code and by Nooksack Tribal Law. The Code shall be liberally construed and interpreted in order to achieve its purpose.
- B. The Code embodies the intent of the Nooksack Tribal Council to promote the following goals:
 - 1. to recognize the illegal nature of domestic abuse;
 - 2. to provide victims of domestic abuse with the maximum protection from abuse that can be made available under the law;
 - 3. to establish an efficient and flexible remedy that discourages violence against and harassment of persons within a family, or others with whom the abuser has continuing contact;
 - 4. to expand the ability of law enforcement officers to assist victims, to enforce existing laws, and to prevent subsequent incidents of domestic abuse;
 - 5. to facilitate the reporting of domestic abuse;
 - 6. to develop a greater understanding of the incidence and causes of domestic abuse by encouraging data collection and evaluation; and

7. to reduce the incidence of domestic abuse, which has a detrimental and lasting effect on the individual, the family, the culture and the community.

C. Nothing in this Code shall be construed to alter or diminish the existing authority of the Nooksack Tribal Court to provide remedies to address domestic abuse and prevent tortuous conduct, including remedies provided by applicable common law, the law of equity, and Nooksack Tribal Law.

20A.01.030 Authority.

This Code is enacted pursuant to Article VI, Section 1(H) and (I) of the Constitution and Bylaws of the Nooksack Indian Tribe of Washington.

20A. 01.040 Jurisdiction.

A. Jurisdiction to make arrests to detain offenders for violation of this Code shall apply to all persons on any land within the territorial jurisdiction of the Nooksack Indian Tribe as defined in the Nooksack Tribe's Constitution and By-Laws.

B. The Nooksack Tribal Court shall retain jurisdiction over any crime enumerated in this Chapter committed by a member of the Nooksack Tribe within the Nooksack Tribe's territorial jurisdiction as defined by the Nooksack Tribe's Constitution and By-Laws.

C. The Nooksack Tribal Court shall have exclusive jurisdiction over the crimes enumerated in this chapter except in those instances where the Federal or State courts may also have lawful jurisdiction, in which case the Nooksack Tribal Court shall have concurrent jurisdiction over the crimes enumerated in this chapter.

D. The Nooksack Tribal Court shall retain jurisdiction over members of federally-recognized Indian Tribes for violations of an order of protection entered pursuant to this Code which are alleged to have occurred outside the territorial jurisdiction of the Nooksack Indian Tribe as defined by the Nooksack Tribe's Constitution and By-Laws, and where such orders are entitled to recognition either as a matter of comity or full faith and credit.

20A.01.050 [Reserved].

20A.01.060 Definitions.

The purpose of this section is to provide definitions that will ensure that this Code has the broadest possible scope with regard to the people, relationships, and actions involved, and to provide definitions of legal terms in order to promote understanding and use of this Code.

- A. "Advocate" is 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 employee or volunteers of the program, or administering the program;
 - 2. has undergone thirty (30) hours of initial domestic violence training; and
 - 3. works under the direction of a supervisor of the program, supervises employees or volunteers or administers the program.
- B. "Clear, cogent, and convincing" means an element has been shown by the evidence to be highly probable.
- C. "Coerce" is to restrain, compel or dominate by force or threat.
- D. "Contact" includes but is not limited to:
 - 1. intentionally coming into and/or remaining in the physical presence of a person under the protection of a protection order as specifically prohibited in the protection order by the Court;
 - 2. intentionally following the other person either walking or in a vehicle;
 - 3. waiting outside the home, property, place of work, school, or any place where the protected person is located as specifically prohibited in the protection order by the Court;
 - 4. sending a written communication in any form to the protected person;
 - 5. using social media in any form as a means to communicate directly or indirectly with the protected person;
 - 6. speaking with the protected person by any means;
 - 7. communicating with the protected person through a third party;

8. damaging the protected person's home, property, pets or financial interests by any means;
 9. communicating any information, including photographs, intended to harass, threaten, intimidate, humiliate or publically embarrass the protected person on social media or through any other electronic means; and/or
 10. delivery directly or through a third person of any object to the home, property, place of work or school of the protected person.
- E. "Crime involving domestic violence" is one or more of the following crimes when committed by a family or household member against another family or household member:
1. offenses listed under 18 U.S.C. Section 1153, the Major Crimes Act as now or hereafter amended; murder, manslaughter, kidnapping, maiming, felony sexual abuse under 18 U.S.C. Section 109A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, arson, burglary, and robbery.
 2. offenses listed under the Nooksack Criminal Code, Title 20, as now or hereafter amended: assault, assault and battery, malicious mischief, trespass, and disobedience to lawful orders of the Court, when the order was entered for the purpose of protecting a victim of alleged domestic violence.
 3. offenses listed under Nooksack Criminal Code, Title 20, Sexual Offenses, as now or hereafter amended.
 4. other criminal offenses included in the Nooksack Criminal Code when the perpetrator commits the offense in an attempt to assert power and control over the victim.
- F. "Dating relationship" is a social relationship of a romantic nature. Factors the Nooksack Tribal Court may consider in making this determination include: (a) the length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.
- G. "Domestic violence" is: (a) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking as defined in Nooksack Criminal Code

20.02.190 of one family or household member by another family or household member.

- H. "Elder" means a person fifty-five (55) years of age or older.
- I. "Essential personal effects" are those items necessary for a person's immediate health, welfare and livelihood. Essential personal effects include but are not limited to clothing, cribs, bedding, documents, medications and personal hygiene items.
- J. "Ex parte when used in connection with proceedings or orders of the Nooksack Tribal Court under this Code, means that only the Court hears the requesting party and that notice and an opportunity to contest the facts are not available to the party adversely affected.
- K. "Family or household member" means spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen (16) years of age or older with whom a person sixteen (16) years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.
- L. "Foreign protection order" is an injunction or other court order related to domestic or family violence, harassment, sexual abuse, or stalking, for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to another person issued by a court of another state, territory, or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or any United States military court, or Tribal Court, in a civil or criminal action.
- M. "Judicial day" means any day during which the Nooksack Tribal Court Clerk's office is open, but does not include Saturdays, Sundays or legal/Court holidays.
- N. "Preponderance of the evidence" means an element has been shown by the evidence to be more probably true than not true.
- O. Probable cause is a legal standard used by law enforcement officers, officers of the court, attorneys and advocates to provide guidance on when there are

enough facts and circumstances present in a given situation to justify arrest of a suspect by a law enforcement officer.

- P. "Probable cause for arrest" means that a police officer, acting as a person of reasonable caution, has reasonable grounds to believe that the person to be arrested has committed a criminal offense, based on all the facts known to the officer, including the officer's personal observations, statements by witnesses, and any other reliable evidence.
- Q. "Protection order" or "order of protection" means an order or a provision in an order entered by a court that restrains or mandates action by a person for the purpose of protecting a family or household member of that person from a potential act of domestic violence as defined in this chapter, including:
1. an order issued under Chapter 20A.03;
 2. any injunction or other order, including temporary and final orders issued by a court, however obtained, if the order was issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection;
 3. a provision in an order entered in a civil domestic relations case or child protection case that provides protection for a family or household member; or
 4. an order for the protection of a victim, in a criminal case arising from an alleged act of domestic violence, including a pretrial condition or a condition of probation.
- R. "Vulnerable adult" means a person who is over the age of eighteen (18) and unable to take steps under this Code to protect himself or herself from domestic violence because of mental or physical disability, illness or deficiency.

**CHAPTER 20A.02
LAW ENFORCEMENT RESPONSE AND DUTIES**

20A.02.010 Duties of Law Enforcement Officer to Victims of Domestic Violence.

- A. A law enforcement officer who responds to an allegation of domestic violence or a crime involving domestic violence shall use all reasonable means to protect the victim and prevent further violence, including, but not limited to:
1. taking necessary actions to provide for the safety of the victim and any family or household member, including arrest of an alleged perpetrator or primary physical aggressor.
 2. confiscating any weapon involved in the alleged domestic violence.
 3. transporting or obtaining transportation for the victim and any child to a shelter or safe residence, at the victim's request.
 4. assisting the victim in removing essential personal effects, regardless of ownership, at the victim's request.
 5. assisting the victim and any child 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 of the remedies and service available to victims of domestic violence.
- B. As part of the notice required in 20A.02.010 (A)(6) above, the law enforcement officer shall give a written notice to the adult victim which substantially informs him or her that:

NOTICE OF THE RIGHTS OF VICTIMS

A. Victim's Rights

If 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. Upon your request, the officer shall assist you to:

- 1. ask for an Emergency order of protection;*
- 2. gather up essential personal effects regardless of ownership;*
- 3. locate a safe place and take you there. The officer may take you to a shelter, the residence of a friend or family member, any other place of*

- safety, or a meeting place where someone else can transport you to a safe place;*
4. *receive medical treatment; and*
 5. *receive a copy of the officer's report, from the Nooksack Tribal Police Department at no cost, subject to 20A.02.100(D).*

B. Right to Obtain an Order of Protection

You have the right to file a petition in Nooksack Tribal Court requesting an order of protection from domestic or family violence. An order of protection may include specific orders of the Court, to your abuser or for your welfare, including any of the following:

1. *Order to not commit or threaten to commit further acts of domestic violence;*
2. *Order to not contact you, harass, annoy, telephone, or otherwise communicate with you, either directly or indirectly;*
3. *Order removing your abuser from your residence, regardless of who owns the residence;*
4. *Order to stay away from your residence, school, place of employment, or any other specific place you or another family or household member frequently go;*
5. *Order prohibiting the possession or use of any firearm or other weapon specified by the Nooksack Tribal Court, and requiring that such weapon be returned to law enforcement;*
6. *Temporary order granting you possession and use of the automobile and other essential personal items and property regardless of ownership;*
7. *Temporary Order granting you custody of your child or children;*
8. *Temporary Order denying your abuser visitation with your child(ren);*
9. *Order making specific requirements for visitation, including supervised visitation; and/or*
10. *Order requiring your abuser to pay certain costs and fees, such as rent or mortgage payments, child support payments, and medical expenses or maintain existing medical insurance coverage, expenses for shelter Court costs and attorney's fees.*

The forms you need to obtain an order of protection are available from the clerk at the Nooksack Tribal Court. No fees are required for an order of protection.

C. Victim Services

1. *For treatment of injuries: Nooksack Tribal Health Center (Mon. – Fri., 8:30 AM to 5:00 PM). (360) 966-2106*

2. Victim Recovery of Costs and Expenses

You also have the right to request payment of losses suffered as a result of the abuse, including medical and moving expenses, loss of earnings or financial support, and other expenses for injuries sustained and damage to your property. This request can be made without an attorney, by filing a complaint in the Tribal Court.

D. Prosecutor Review for Criminal Action

You may request that the prosecutor review your situation to determine whether to file a criminal complaint, even if no criminal citation is issued by a law enforcement officer. If a criminal complaint is filed, you are entitled to all rights granted to victims of crime, including the right to:

- 1. be present at, and upon request, to be informed of all criminal proceedings where the defendant has the right to be present;*
- 2. provide the Nooksack Tribal Court with a statement, either in person or in writing, on the impact that the incident or crime had on your health, welfare and the emotional impact of the incident or crime, a statement of your opinion regarding the frequency of domestic violence or crimes involving domestic violence involving the abuser, and your concerns of further harm;*
- 3. advise the Nooksack Tribal Court on appropriate counseling and any other conditions of probation and parole that you believe should be required of the abuser in order to ensure your safety and welfare, and that of other family and household members; and*
- 4. request restitution for losses directly caused by any criminal conduct by the abuser; you may also be eligible to apply for victim's compensation.*

You also have the choice to refuse an interview by the defendant, the defendant's attorney, or other person acting on behalf of the defendant unless the Nooksack Tribal Court orders that an interview may take place under conditions that the Nooksack Tribal Court sets for your protection and comfort.

- C. Any written notices regarding domestic violence from the Nooksack Tribal Police provided for general distribution to the public shall not include the addresses of domestic violence shelters.*

20A.02.020 Duty of Law Enforcement Officer to Ensure Evidence Preserved.

A. Purpose.

The purpose of this section is to assist in the prosecution of perpetrators of alleged domestic violence or crimes involving domestic violence, recognizing that victims are often reluctant to press charges or testify at subsequent hearings for many reasons, including, but not limited to, economic factors, and emotional and psychological factors related to patterns of victimization.

The successful prosecution of a domestic violence offense starts with a careful and complete investigation. Special concerns in domestic violence investigations include victim safety and preserving the ability to hold the batterer accountable for his or her actions regardless of whether the victim is willing or able to cooperate with the prosecution.

B. Duties.

1. The police report prepared by a law enforcement officer who responds to an allegation of domestic violence or a crime involving domestic violence should, when appropriate, include a description of the physical and emotional condition of the victim; the identity of any witnesses to the incident and what they observed; and should also include photographs of injuries to any victim, of any damage to property, and of the location and surroundings of the alleged incident.
2. A law enforcement officer who responds to an allegation of domestic violence or a crime involving domestic violence shall encourage any victim to make an oral and written statement concerning the incident, to sign it, and shall take one from any perpetrator, if possible.
3. A law enforcement officer who responds to an allegation of domestic violence or a crime involving domestic violence shall ensure that the victim is made aware of the importance of preserving evidence of the incident.

20A.02.030 Mandatory Arrest for Domestic Violence or Crimes Involving Domestic Violence – Purpose – Determination of Primary Physical Aggressor – Required Report.

A. Purpose.

The purpose of mandating arrest of perpetrators in all instances where an officer determines that there is probable cause to conclude that domestic violence or a crime involving domestic violence has occurred is to provide victims with immediate protection from the current violence, afford them an opportunity to consider legal options, to provide victims with time to safely relocate or obtain an order of protection, and to ensure an adequate and prompt law enforcement response to domestic violence.

B. Determination of Primary Physical Aggressor.

1. A law enforcement officer shall without a warrant, arrest a person if the officer has probable cause to believe that the person has committed domestic violence or a crime involving domestic violence within the previous four (4) hours. The officer's duty to make an arrest upon probable cause is not lessened even though it may be against the expressed wishes of the victim.
2. If a law enforcement officer receives a complaint alleging domestic violence or a crime involving domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine who was more likely to have been the primary physical aggressor. In determining whether a person was the primary physical aggressor, the officer shall consider:
 - a. prior complaints of domestic violence;
 - b. the relative severity of the injuries inflicted on each person;
 - c. the likelihood of future injury to each person; and
 - d. whether one of the persons acted in self-defense.
3. If a law enforcement officer determines that one person was the primary physical aggressor, the officer has the discretion not to arrest the other person, even if the officer has probable cause to believe that the other person has committed domestic violence or a crime involving domestic violence against the primary physical aggressor.

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

C. Required Report.

1. The law enforcement officer shall forward that offense report to the prosecutor within five (5) calendar days of the incident if there is probable cause to believe that an offense has been committed, unless the case is under active investigation.
2. When there is a domestic violence arrest, the arresting officer shall file with the prosecutor an affidavit of probable cause within forty-eight (48) hours of the arrest, or the first day after a weekend or holiday.
3. The alleged domestic violence perpetrator shall be held without bail until brought before the Court.

20A.02.040 Court Ordered Conditions for Domestic Violence Crimes.

- A. At the preliminary hearing, if the alleged perpetrator is to be released from custody, the Nooksack Tribal Court in its discretion and as a condition of release may issue an order for protection temporarily excluding the alleged perpetrator from the home of the alleged victim and restraining the alleged perpetrator from any contact with the alleged victim.
- B. If the alleged perpetrator pleads guilty, a pre-sentence report may be ordered at the discretion of the Nooksack Tribal Court prior to sentencing.
- C. If it appears to the Nooksack Tribal Court that alcohol or drugs played a part in the abuse, a chemical dependency evaluation with a treatment plan may be ordered, at the discretion of the Nooksack Tribal Court prior to sentencing.
- D. The Nooksack Tribal Court may order that a perpetrator of domestic violence be ordered to complete a domestic violence evaluation and follow a recommended treatment plan.
- E. The Nooksack Tribal Court may order that a perpetrator of domestic violence complete any other treatment evaluations and follow treatment recommendations.

20A.02.050 Law Enforcement Officer Duties--Telephonic Emergency Order of Protection.

- A. When a law enforcement officer has probable cause to believe that domestic violence or a crime involving domestic violence has occurred, and the victim requests immediate protection and a judge is not available to hear a request for an emergency order of protection in person, the officer may contact the judge by telephone to hear the request, and the officer shall state the grounds for making the request.
- B. A law enforcement officer who receives authorization from the Nooksack Tribal Court by telephone to carry out an emergency order of protection shall:
 - 1. write and sign the order as directed by the Nooksack Tribal Court;
 - 2. immediately provide the petitioner with a copy of the order and assist the petitioner in securing any items of property he or she is entitled to under the terms of the order;
 - 3. take all reasonable means to serve a copy of the order on the respondent; and
 - 4. provide the order to the Nooksack Tribal Court by the end of the next judicial day.

20A.02.060 Law Enforcement Officer Duty to Expedite Service for Orders of Protection.

The Nooksack Tribal Police shall ensure that law enforcement officers provide expedited service for orders of protection.

20A.02.070 Authority of Law Enforcement Officer to Seize and Hold Weapons.

- A. Incident to an arrest for domestic violence or crime involving domestic violence, a law enforcement officer shall seize all weapons that are alleged to have been involved or were threatened to be used.
- B. The officer may also seize a weapon that is in the plain view of the officer, or was discovered pursuant to a consensual search or a search incident to arrest as necessary for the protection of the officer or other persons.
- C. Law enforcement officers are authorized to confiscate weapons from a person who is prohibited from possessing or using them.

- D. Law enforcement officers are also authorized to accept and hold weapons for safekeeping for a person who is prohibited from possessing or using them.

20A.02.080 Mandatory Arrest for Certain Violations of an Order of Protection.

- A. When a law enforcement officer has probable cause to believe that a respondent has violated one of the following orders of the Nooksack Tribal Court, and the officer has verified the existence of the order, the officer shall, without a warrant, arrest the alleged violator. Arrest shall be mandatory where the violation is one of the following:
 - 1. order to not commit or threaten to commit further acts of domestic violence;
 - 2. order to not contact the petitioner, harass, annoy, telephone or otherwise communicate with the petitioner, either directly or indirectly (i.e. through a third party);
 - 3. order removing the respondent from the petitioner's residence;
 - 4. order to stay away from petitioner's residence, school, place of employment, or any other specific place petitioner or another family or household member frequently go; and/or
 - 5. order prohibiting the possession, or use of any firearm or other weapons specified by the Nooksack Tribal Court.
- B. The person shall be held in custody without bail pending further action by the Nooksack Tribal Court.

20A.02.090 Mandatory Arrest for Violation of Conditions of Release.

If a law enforcement officer has probable cause to believe that a person has violated a condition of release, imposed by the Nooksack Tribal Court, after arrest or detention for allegedly committing domestic violence or a crime involving domestic violence, and the officer verifies that the alleged violator has notice of the conditions of release, the officer shall, without a warrant, arrest the alleged violator. The person shall be held in custody without bail pending further action by the Nooksack Tribal Court.

20A.02.100 Law Enforcement Records on Domestic Violence to be Identifiable.

- A. The Nooksack Tribal Police Department shall include coding or other identification on the records it maintains that will indicate which incidents and arrests involved allegations of domestic violence.

- B. The Nooksack Tribal Police Department is not required to provide records of police contacts alleging incidents of domestic violence to the alleged perpetrator; any records would have to be obtained through the prosecutor's office as part of a criminal prosecution or by Nooksack Tribal Court order. In ordering disclosure, the Nooksack Tribal Court may order that the victim's identification and location be redacted, and may make other orders as necessary to protect the victim's confidentiality.
- C. Subject to 20A.02.100(B), and approval by the Nooksack Tribal prosecutor, the Nooksack Tribal Police Department shall provide all non-confidential, final and relevant police reports, upon request to:
 - 1. child protection workers inquiring into the safety of a child from a person who is alleged to have engaged in an act of domestic violence.
 - 2. elder protection workers inquiring into the safety of an elder or vulnerable adult from a person who is alleged to have engaged in an act of domestic violence.
- D. Pending the prosecution of a case, the prosecutor may provide a copy of a police report to the victim if, in the discretion of the prosecutor, providing the report will not impair the prosecution. The prosecutor will redact the names of other victims if necessary to protect their confidentiality and will redact the names of juvenile defendants. If the victim is a minor, the prosecutor may release the report to the victim's parent or custodian.

20A.02.110 Liability of Law Enforcement Officers.

A law enforcement officer shall not be held liable in any civil action for an arrest based on probable cause, enforcement in good faith of a Nooksack Tribal Court order, or any other action or omission in good faith under this Code arising from alleged domestic violence or a crime involving domestic violence brought on by any party.

20A.02.120 Victim Compensation.

Victim advocates shall assist a victim of domestic violence apply for victim compensation for which the victim is eligible.

**CHAPTER 20A.03
ORDER OF PROTECTION – CIVIL PROCESS**

20A.03.010 Purpose.

The purpose of this chapter is to provide victims of domestic violence with a process for obtaining orders of protection independent of contacting law enforcement officers to report a crime. Petitioners applying for orders of protection should be referred by the Nooksack Tribal Court to law enforcement in the event that an unreported crime has been committed. The purpose of authorizing orders of protection to be issued without prior notice to the respondent is to ensure the immediate protection of the petitioner and any family or household member and to prevent further violence. Orders may be modified or extended, with or without either notice to the respondent or a hearing consistent with this purpose.

20A.03.020 Filing a Petition for an Order of Protection – Who May File.

- A. Any person who resides on any land in trust or reservation status, which is owned by the Nooksack Tribe; or any person who is an enrolled member of the Nooksack Tribe or any other federally recognized Tribe who alleges that he or she is or has been a victim of domestic violence occurring on any land in trust or reservation status owned by the Nooksack Tribe; or any person where Title 10, the Nooksack Tribal Court System and Court Rules, Section 10.00.060 provides long-arm jurisdiction over the person, may file a petition with the Nooksack Tribal Court for an order of protection and may seek relief under this chapter.
- B. A person may petition for relief on behalf of any family or person under the age of eighteen (18) years if they have legal responsibility for that person.
- C. Family or household members, including adults may jointly file a single petition.
- D. Persons under the age of fourteen (14) years must have a parent, guardian or other family or household member file the petition unless the parent, guardian or other family or household members is the alleged abuser, in which case an adult relative, friend or other representative, or Family Services/ Indian Child Welfare, or Social Services may file on behalf of the minor.

20A.03.030 Filing a Petition for an Order of Protection or to Modify an Existing Order – Contents.

A petition for an order of protection from domestic violence, or to modify an existing order of protection shall include:

- A. Petitioner and/or Victim's membership in a Federally Recognized Indian Tribe and where he or she is domiciled.
- B. The Respondent's membership in a Federally Recognized Indian Tribe and where he or she is domiciled.
- C. The name and address where the petitioner would like to receive notices from the Nooksack Tribal Court, which shall be kept confidential. If the petitioner is filing on behalf of other persons, the petitioner's address and a statement of the person's authority under 20A.03.020 to file the petition;
- D. an allegation that domestic violence or a crime involving domestic violence has taken place;
- E. the names and ages of all persons known to the petitioner to be in need of protection;
- F. the name, address, and age of the alleged abuser, and his or her relationship to each victim;
- G. a signed statement or separate affidavit filed with the petition, stating in the petitioner's own words, the specific facts and circumstances of the alleged domestic violence, including whether the petitioner believes him or herself to be in immediate danger of further domestic violence, and if applicable, what modifications to the existing order the petitioner is requesting, and why the changes are necessary;
- H. a statement listing each civil and criminal action or proceeding, past and present, involving both parties, the court of record for the action or proceeding, and any additional identifying information which may enable the Nooksack Tribal Court to access court dockets, charges, pleadings, outcomes and the issuance of any civil or criminal restraining orders;
- I. a request for the relief sought;
- J. the petitioner may state on a separate sheet from the petition address(es) for protected persons that are not to be provided to the respondent;
- K. a civil petition may be filed regardless of any other pending civil or criminal proceeding related to the same allegations in the petition;
- L. no filing fee or court costs shall be required for the filing of a petition under this Code;

- M. the Nooksack Tribal Court shall provide standard, simplified petition forms, with instructions, to persons without legal representation; and
- N. no bond will be required to obtain relief in any proceeding under Chapter 20A.03.

20A.03.040 Effective Date for an Order of Protection.

An order of protection shall be effective upon receipt by the alleged perpetrator of the written order, or upon receipt by the alleged perpetrator of actual notice of the protection order, whichever is earlier.

20A.03.050 Notice of Sanctions for Violation.

A protection order issued under this Code shall contain the following language, in either boldfaced type or capital letters, which substantially informs the person against whom the order is entered that:

"Violation of this order is a criminal offense and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate it. You have the sole responsibility to fully comply with all of the order's provisions. Only the Nooksack Tribal Court may change the order."

20A.03.060 Hearing and Service.

- A. Upon receipt of the petition, the Nooksack Tribal Court shall order a hearing that shall be held at the next scheduled civil court calendar date after the petition is filed.
- B. The Nooksack Tribal Court shall cause the order to be delivered to the Nooksack Tribal Police Department for expedited service to any of the parties who were not present in the courtroom. If the police department cannot personally serve the Respondent, the Nooksack Tribal Court shall complete service by certified mail, return receipt requested, and by regular mail to any address the Petitioner believes may reasonably ensure notice to the Respondent, or by publication. Notice of hearing shall be made upon the respondent not less than five (5) days prior to the hearing. Service under this Chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.
- C. The Nooksack Tribal Court may permit service by certified mail or by publication only if personal service has been attempted without any success.
- D. Proof of service shall be consistent with the procedures of the Nooksack Tribal Court System and Title 10 of the Nooksack Tribal Code.

- E. The Nooksack Tribal Court may issue an ex parte order for protection pending the hearing as provided under this Chapter.

20A.03.070 Emergency Order of Protection – When Available – Issuing – Contents – Expiration.

- A. The Nooksack Tribal Court shall ensure that a judge or other authorized person designated by the Court is available to hear petitions or requests for an emergency order of protection twenty-four (24) hours a day, seven (7) days per week.
- B. The Nooksack Tribal Court may immediately issue a written or telephonic ex-parte emergency order of protection, without notice to an alleged perpetrator of domestic violence or a crime involving domestic violence, when a law enforcement officer or the petitioner states to the Nooksack Tribal Court in person, or by telephone, and the Nooksack Tribal Court finds probable cause to believe, that the petitioner is in immediate danger of domestic violence based on an allegation of a recent incident of domestic violence or a crime involving domestic violence committed by a family or household member.
 - 1. The Nooksack Tribal Court may issue, upon its own motion, a written or oral emergency order of protection, without notice to an alleged perpetrator of domestic violence or a crime involving domestic violence, when it appears to the Nooksack Tribal Court, upon review of a petition for an order of protection from domestic violence, that the Court finds probable cause to believe that the petitioner is in immediate danger of domestic violence, based on an allegation of a recent incident of domestic violence or a crime involving domestic violence committed by a family or household member.
 - 2. The Nooksack Tribal Court shall then cause the ex parte emergency order of protection, together with a notice of hearing, to be served immediately on the respondent.
 - 3. The Nooksack Tribal Court shall hold a hearing within fifteen (15) days after the granting of the ex parte order of protection to determine whether the order should be made permanent, vacated, or extended for an additional fifteen (15) days, or modified in any respect.
 - 4. The Nooksack Tribal Court shall hold a hearing within three (3) days if the order of protection involves restrictions on custody or visitation rights of the respondent.

5. If an ex-parte order is not granted, the Nooksack Tribal Court shall serve notice of hearing upon both parties and hold a hearing on the petition within seventy-two (72) hours after the filing of the petition. If notice of hearing cannot be personally served on the respondent prior to the hearing, then the hearing may be continued for fifteen (15) days after filing of the petition, in order to effectuate service.
- C. The Nooksack Tribal Court may grant the following relief in an emergency order of protection:
1. order the respondent to not commit or threaten to commit further acts of domestic violence;
 2. order the respondent to not contract, harass, annoy, telephone or otherwise communicate with the petitioner, either directly or indirectly (i.e. through a third party);
 3. order the removal of the respondent from the petitioner's residence, regardless of ownership of the residence:
 - a. if the incident occurred on trust land owned by the Nooksack Indian Tribe or on the Nooksack Indian Reservation;
 - b. the order shall be effective for seventy-two (72) hours and may be extended until permanent residency issues are resolved;
 - c. the order is renewable upon review by the Nooksack Tribal Court.
 4. order the respondent to stay away from the petitioner's residence, school, place of employment, or any other specific place petitioner and any designated family or household member frequently go;
 5. issue an order granting the petitioner possession and use of an automobile and other essential personal items and property, regardless of ownership, and direct law enforcement to accompany the petitioner to the residence of the parties to ensure that the petitioner is able to safely retrieve such items, or to supervise the respondent or petitioner in removing personal property;
 6. order granting the petitioner temporary custody of child(ren);
 7. order restraining the respondent from removing a child or children from Whatcom County, Washington; and/or

8. order such other relief as the Court deems necessary to protect and provide for the safety of the petitioner and any designated family or household member.
- D. An emergency order of protection granting any relief under (C)(6) of this Section expires three (3) working days after issuance unless the Nooksack Tribal Court schedules a hearing with notice to the respondent. An emergency order of protection granting relief under (C) of this Section expires ten (10) days after issuance unless the Nooksack Tribal Court schedules a hearing with notice to the respondent.
- E. Following entry of an ex parte emergency order of protection, the Nooksack Tribal Court shall:
1. set a date for a hearing to be held within three (3) days after entry of an emergency order of protection that grants relief set forth in 20A.03.070(C) 3 through 7;
 2. cause the order to be delivered to the Nooksack Tribal Police Department for enforcement purposes and for service upon the respondent;
 3. transmit a copy of the order to any additional, appropriate law enforcement agencies or other agencies designated by the petitioner; and
 4. make reasonable efforts to ensure that the order of protection is understood by the petitioner.

20A.03.080 Order of Protection – Issuing – Contents – Expiration.

- A. Whether or not the Nooksack Tribal Court has issued an ex parte order of protection under 20A.03.070, it may issue an order of protection or modify an order of protection under this section after a hearing. If notice has been sent to the respondent, the order may be issued whether or not he or she appears at the hearing.
- B. If it appears from a petition for an order of protection, or a petition to modify an order of protection that domestic violence has occurred, or a modification of an order is required, the Nooksack Tribal Court may:
1. immediately issue or modify an order of protection ex parte, without notice or a hearing, as deemed necessary to protect the petitioner;

2. upon notice to the parties and after a hearing, issue or modify an order of protection whether or not the respondent appears; or
 3. the Nooksack Tribal Court may, without notice and a hearing, issue or modify an ex parte order and grant the relief as set forth in 20A.03.070 (C) (1 through 8) above, and also order that the respondent's possession or use of any firearm or other weapon specified by the Nooksack Tribal Court is prohibited, and that the respondent is required to turn such items in to law enforcement for safekeeping.
- C. The Nooksack Tribal Court may grant the following relief in an order of protection or modification of an order of protection, after notice and a hearing, whether or not the respondent appears:
1. grant the relief set forth in 20A.03.070 (C)1 through 8 above, and also order that the respondent's possession or use of any firearm or other weapon specified by the Nooksack Tribal Court is prohibited, and that the respondent is required to turn such items in to law enforcement for safekeeping.
 2. specify arrangements for visitation of any minor child by the respondent, and require supervision of that visitation by a third party, or deny visitation if necessary to protect the safety of the petitioner or child.
 - a. If the Nooksack Tribal Court finds that the safety of the victim or the minor children will be jeopardized by unsupervised or unrestricted visitation, the Nooksack Tribal Court shall set forth conditions or restrict visitation as to the time, place, duration, or supervision, or deny visitation entirely, as needed, to guard the safety of the claimed victim and the minor children.
 - b. In determining custody and/or visitation, the Nooksack Tribal Court must consider the perpetrator's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury or assault to another person.
 - c. In a visitation order, the Nooksack Tribal Court may order:
 - i. an exchange of the minor to occur at a location that provides for a protected setting with a third party;
 - ii. that visitation be supervised by another person or agency;

- iii. the perpetrator to abstain from possession or consumption of alcohol or controlled substances twenty-four (24) hours prior to the visitation and during the visitation;
 - iv. the perpetrator to pay a fee to defray the cost of supervised visitation;
 - v. that overnight visitation is prohibited;
 - vi. a bond from the perpetrator for the return and safety of the minor child; and
 - vii. any other condition that is deemed necessary to provide for the safety of the minor child, the victim, or other family or household members.
 3. Order the respondent to make the following payments to petitioner, the Nooksack Tribal Court or another party:
 - a. rent or mortgage on the petitioner's current residence, regardless of ownership;
 - b. temporary support of the petitioner and minor child, if under the circumstances, the respondent is found to have a duty to support the petitioner or minor child;
 - c. reimbursement for any expenses associated with the domestic violence, including but not limited to medical expenses, counseling, shelter and repair or replacement of damaged property; and/or
 - d. costs and fees incurred by the petitioner in bringing the action, including reasonable attorney's fees.
 4. The order of protection shall state on the order that willful violation of any provision of the order constitutes a violation of the order and constitutes contempt of Nooksack Tribal Court punishable by a fine or imprisonment or both and may constitute violation of criminal laws, which may be filed as separate criminal charges.
- D. If the Nooksack Tribal Court issues or modifies an order of protection under this section the Court shall:
1. cause the order to be delivered to the Nooksack Tribal Police Department for expedited service to any of the parties who were not present. If the Nooksack Tribal Police Department cannot personally serve the respondent, the Court shall complete service by certified mail return receipt requested to any address the petitioner believes may

reasonably ensure notice to the respondent, and by publication in a newspaper, newsletter or on a court-approved bulletin board;

2. make reasonable efforts to ensure that the order of protection, or modified order of protection is understood by the petitioner and the respondent if present; and
3. transmit a copy of the order of protection, or modified order of protection to any additional, appropriate law enforcement agencies or other agencies designated by petitioner.

E. An order of protection issued pursuant to this Section is effective up to one (1) year, or until further order of the Nooksack Tribal Court, and may be renewed, modified or rescinded by the Nooksack Tribal Court prior to expiration, upon the petitioner's request and upon notice to the parties and after a hearing, whether or not the respondent appears.

20A.03.090 Default Order of Protection.

A. When the respondent fails to appear or otherwise defend, the petitioner may request a default order of protection. The Nooksack Tribal Court may enter a default protection order upon finding the following:

1. the Nooksack Tribal Court has jurisdiction over the subject matter of the case;
2. the respondent was given proper service of the petition and summons and proper notice of the hearing; and
3. the petition satisfies the requirements of this Code.

B. The order of protection issued by default shall be personally served on the respondent, or the Nooksack Tribal Court shall complete service by publication and by certified mail, return receipt requested. If the respondent is incarcerated or in a treatment facility, the default order of protection may be served by an official of the jail or treatment facility.

20A.03.100 Request to Modify Order by Respondent.

A. When a respondent did not receive actual notice of a hearing prior to entry of an order of protection under section 20A.03.050 of this Code, the respondent may request reconsideration of the order of protection.

B. The purpose of this section is to allow the respondent with a means of requesting modification of an order of protection where such order:

1. removes the respondent from a residence that he or she owns;
 2. requires the respondent to stay away from the petitioner's residence, school, place of employment, or any other specific place petitioner or any designated family or household member frequently go;
 3. grants the petitioner possession and use of an automobile and other essential personal items and property, regardless of ownership;
 4. grants the petitioner temporary custody of a child or children;
 5. provides or denies the respondent visitation with a minor child or children;
 6. requires the respondent to make any payments or rent payments to the petitioner, the Nooksack Tribal Court or to another party;
 7. or where a substantial change of circumstances has occurred since the time that the provision in the order was entered; or
 8. or where the provision in the order may be modified without endangering the safety of any person protected under the order and the provision in the order works an unreasonable hardship upon the respondent.
- C. Upon receiving the respondent's motion for modification, the Nooksack Tribal Court shall set a hearing as soon as practicable, but in no event later than thirty (30) calendar days after the next day on which Nooksack Tribal Court is in session following the filing of the petitioner's request. The motion shall be supported by an affidavit setting forth the reasons for the modification. Notice shall be sent to the petitioner that the respondent is seeking a modification of the order of protection.
- D. The purpose of the hearing, requested by a respondent subject to an order of protection as set forth in Section (A), above, shall be for the Nooksack Tribal Court to consider whether any less restrictive alternatives may be appropriate under the circumstances. The Nooksack Tribal Court may modify an order pursuant to this section where the order works an unreasonable hardship upon the respondent, provided that the safety of the victim or any family or household member protected by the order remains the primary consideration. The Nooksack Tribal Court may consider the following factors in determining whether to grant the motion for modification:
1. whether the respondent is participating in any domestic violence or

- substance abuse treatment required by the order;
 - 2. whether the respondent is complying with other requirements of the order;
 - 3. whether the safety of the victim and other persons protected will be compromised by the modification; and
 - 4. whether circumstances have changed since the issuance of the order.
- E. If the protection order was issued in connection with a crime of domestic violence that was a second or repeat offense, the Nooksack Tribal Court shall require proof by clear and convincing evidence in order to modify the order.

20A.03.110 Review Hearings.

In the discretion of the Nooksack Tribal Court, order of protection review hearings may be scheduled periodically to monitor the respondent's compliance with court-ordered services and other aspects of the order of protection.

20A.03.120 Vacating a Protection Order.

The Nooksack Tribal Court may vacate a protection order issued under this chapter prior to its expiration upon the petitioner's request, notice to the parties, and after a hearing in which the Nooksack Tribal Court determines that:

- A. the respondent has completed any domestic violence or substance abuse treatment required by the order; or
- B. circumstances have changed to remove the danger; or
- C. protection is no longer needed; and
- D. it appears likely that the respondent will not commit domestic violence again.

**CHAPTER 20A.04
TRIBAL COURT RESPONSE AND DUTIES**

20A.04.010 Tracking and Confidentiality.

- A. The Nooksack Tribal Court shall establish a method for identifying civil and criminal cases that arise from an allegation of domestic violence or a crime involving domestic violence, and clearly identify such cases on court docket sheets.
- B. Nooksack Tribal Court proceedings arising from a petition for a domestic violence order are closed to the general public. The Court may designate appropriate persons who may attend the proceeding.
- C. Nooksack Tribal Court records arising from a petition for a domestic violence order are confidential. Documents and other information contained in the file may be released to the Petitioner, law enforcement officers, judicial officers, tribal prosecutor, victim advocates, child protection workers, and elder protection workers. The records may be released, except for the address and location of the protected person(s), to the Respondent. The records may also be released to other persons upon order of the Court for good cause shown.
- D. At all stages of a criminal proceeding under this Code, the Nooksack Tribal Court shall take steps necessary to ensure that a victim's address or location is kept confidential from members of the public, except that the address or location may be revealed with the victim's consent, and to the attorneys for the parties to the case. The defense counsel may not reveal to his client the address or location of the victim without authorization of the Nooksack Tribal Court.

20A.04.020 Conditions of Pretrial Release – Written Orders, Counseling, Domestic Violence Evaluation, Training

- A. When considering pretrial release of a person who is under arrest for, or being charged with, domestic violence or a crime involving domestic violence, the Nooksack Tribal Court shall review all available facts and reports, concerning the arrest and detention of the person, and make a determination on the record, if possible, on whether or not to release the person based on whether the person is:
 - 1. a threat to the alleged victim or other family or household members;
 - 2. a threat to the safety of the community; or

3. reasonably likely to appear in Nooksack Tribal Court for a subsequent proceeding.
- B. Before authorizing release of a person under arrest for, or being charged with, domestic violence or a crime involving domestic violence, the Nooksack Tribal Court shall consider imposing conditions of release or bail on the person in order to protect the alleged victim, and to ensure the appearance of the person arrested or charged at a subsequent Nooksack Tribal Court proceeding.

Conditions of release of bail may include:

1. an order to not commit or threaten to commit acts of domestic violence against the alleged victim or other family or household members;
 2. an order to not contact, harass, annoy, telephone or otherwise communicate with the alleged victim, either directly or indirectly (i.e. through a third party);
 3. an order to vacate or stay away from the residence of the victim, even if it is a shared residence, or principally owned by the alleged perpetrator, and to stay away from any specific place the alleged victim or another family or household member frequently go;
 4. an order prohibiting the possession or use of any firearm or other weapon specified by the Nooksack Tribal Court, and to turn such weapon in to law enforcement for safekeeping;
 5. an order prohibiting the person from possession or consumption of alcohol or controlled substances;
 6. an order requiring the perpetrator to receive an alcohol, drug, and domestic violence evaluation within seventy-two (72) hours of the incident; and/or
 7. any other order the Nooksack Tribal Court believes is reasonably necessary to protect and ensure the safety of the alleged victim or family or household member, or to ensure the appearance of the person at a subsequent court proceeding.
- C. If pretrial conditions of release are imposed, the Nooksack Tribal Court shall:
1. issue a written order that shall contain the conditions imposed by the Court for release of the defendant from custody;

2. immediately distribute a copy of the order to the Nooksack Tribal Police Department, or any other entity having custody of the arrested or charged person; and
 3. waive any requirements that the alleged victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon showing that there is a possibility of further violence. The Nooksack Tribal Court may also order a criminal defense attorney not to disclose the victim's location to his or her client.
- D. The written order releasing the person arrested for or charged with domestic violence shall contain the conditions of release imposed by the Nooksack Tribal Court and shall contain a prominent annotation, in either boldfaced type or capital letters, which substantially informs the released person that:
- "VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE AND WILL SUBJECT A VIOLATOR TO ARREST. YOU CAN BE ARRESTED EVEN IF ANY PERSON PROTECTED BY THE ORDER INVITES OR ALLOWS YOU TO VIOLATE IT. YOU HAVE THE SOLE RESPONSIBILITY TO FULLY COMPLY WITH ALL OF THE ORDER'S PROVISIONS. ONLY THE COURT MAY CHANGE THE ORDER."***
- E. The Nooksack Tribal Court shall provide a copy of the conditions of release 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 notice of the conditions.
- F. If pretrial conditions of release are imposed without a hearing, the Nooksack Tribal Court shall hold a prompt hearing to review the conditions, upon the request of the arrested or charged person.
- G. When a person who is arrested for, or charged with, or in custody for a crime involving domestic violence is released from custody, the Nooksack Tribal Court shall:
1. use all reasonable means to immediately notify the victim of the alleged crime that the person is being released; and
 2. furnish the victim of the alleged crime a copy, at no cost, of any pretrial conditions imposed of release.

20A.04.030 Witness Testimony.

- A. Upon the request of a prosecutor or the defense, the Nooksack Tribal Court may issue a material witness warrant compelling a witness to appear before the Nooksack Tribal Court. In making the request, the party must certify that:
1. the witness is material to the party's case;
 2. the witness has failed or refused to appear before the Nooksack Tribal Court; and
 3. other means of securing the witness' presence at trial have proved futile.
- B. With the legislative purpose in mind to find the truth while allowing a domestic violence victim protection from trauma to the extent that is constitutionally permitted, the Nooksack Tribal Court may consider state or federal rules of procedure, applicable case law, and rules regarding the admissibility of evidence, including, but not limited to, hearsay, video-taped depositions, or testimony by closed-circuit television. The Nooksack Tribal Council declares that protection of a domestic violence victim-witness is a substantial and compelling interest of the Nooksack Tribe. When abuse is prosecuted, a domestic violence victim or witness may suffer serious emotional and mental trauma from exposure to the abuser or from testifying in open court. The creation of procedural devices designated to enhance the truth-seeking process and to shield domestic violence victim-witnesses from the trauma of exposure to the abuser and the courtroom is a compelling tribal interest.

20A.04.040 Duty of Prosecutor to Inform Victim of Rights – Victim's Rights in Legal Proceedings.

- A. Any person prosecuting domestic violence or a crime involving domestic violence shall notify the victim of his or her legal rights as set forth below.
- B. A victim of domestic violence or a crime involving 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. The Nooksack Tribal Court shall send notices;
 2. have the prosecutor consider the victim's wishes as to whether he or she will testify against the perpetrator at trial. In considering the victim's wishes, the prosecutor will balance the seriousness of the

offense, the strength of the case, and the public interest in punishing the defendant and deterring other offenders against the harm to the victim from being forced to testify;

3. be present at all court proceedings involving the incident and to make a written or oral statement to the court at the sentencing hearing;
4. provide the Nooksack Tribal Court with a statement either in person or in writing, on the impact that the incident or crime has had on the victim's health, welfare and the emotional impact of the incident or crime, a statement of the victim's opinion regarding the frequency of domestic violence or crimes involving domestic violence which involve the perpetrator, and the perceived risk of further harm;
5. advise the Nooksack Tribal Court on appropriate counseling and any other conditions of probation and parole that the victim believes should be required of the perpetrator in order to ensure the safety and welfare of the victim and other family or household members;
6. request restitution for losses directly caused by any criminal conduct by the perpetrator;
7. be informed of how to apply for victim's compensation, and to apply for such funds; and
8. receive notice from the prosecutor when:
 - a. an alleged perpetrator will not, for any reason, be prosecuted for alleged domestic violence, a crime involving domestic violence, or for violating an order of protection; or
 - b. the disposition of the case involves an agreement reached during plea bargaining.

20A.04.050 Reasons for Dismissal Required in Court File.

- A. When a prosecutor moves to dismiss charges against a defendant accused of domestic violence or a crime involving domestic violence, or when the Nooksack Tribal Court dismisses such charges, the specific reasons for the dismissal must be recorded in the court file.
- B. If the motion for dismissal, or dismissal, is based on the unavailability of the alleged victim or any witness, the prosecutor shall indicate the specific reasons why such person(s) are unavailable and why the case cannot be prosecuted.

- C. In filing a criminal complaint, the prosecutor may decline to charge the alleged crime as one involving domestic violence upon a determination that the alleged crime does not come within the purpose of this Code, to prevent domestic violence, because the incident does not involve an attempt by one family or household member to exercise power and control over the other family or household member.

20A.04.060 Dismissal of Criminal Case because of Civil Compromise Prohibited.

The Nooksack Tribal Court shall not dismiss a criminal case involving domestic violence or a crime involving domestic violence for the sole reason that a civil compromise or settlement is offered or reached, or that the victim does not want the matter to be pursued.

20A.04.070 Judgments of Conviction.

- A. When entering a judgment of conviction for a crime involving domestic violence, the Nooksack Tribal Court shall:
 - 1. consider the entry of orders for the protection of the victim, including those set out in Section 20A.03.070 of this Code;
 - 2. order the defendant to obtain a domestic violence evaluation and to comply with all treatment recommendations, including additional recommendations that may be made during treatment; and
 - 3. order restitution as warranted.
- B. For the purposes of this section, a domestic violence evaluation shall include a complete diagnostic evaluation; an evaluation of current and past criminal history; an evaluation of all violence history whether or not it resulted in a conviction; an assessment of future dangerousness; an assessment of family and cultural issues; an assessment of substance abuse; an assessment of learning disabilities and other special needs that would affect the method of treatment; and a treatment plan that adequately and appropriately addresses the treatment needs of the individual. The evaluation may not be based solely on the defendant's self-report. The defendant must sign privacy releases for the evaluator to obtain any confidential information that is necessary to the evaluation.
- C. Satisfactory completion of domestic violence treatment required under this section must be based on meeting treatment goals, not merely the completion of a certain period of time or certain number of sessions. The treatment must focus on ending the violence and holding the defendant accountable for his or her violence. The treatment must include education about the individual,

family, and cultural dynamics of domestic violence. If the defendant or the victim has a minor child, treatment must include education about the effects of domestic violence on children. The defendant must sign privacy releases for the treatment provider to obtain any confidential information that is necessary to the treatment. The defendant must also sign a release for the treatment provider to provide information to the probation office in order to monitor compliance with the Nooksack Tribal Court order.

20A.04.080 Information from National Crime Information Databases.

Under the power granted in 18 U.S.C. Section 534(e)(1), the Nooksack Tribal Court shall obtain information from national crime information databases of identification records, criminal history records, protection orders, and wanted person records for use in domestic violence or stalking cases.

20A.04.090 Tribal Court Records on Domestic Violence to be Identifiable.

The Nooksack Tribal Court shall identify by any reasonable means, on docket sheets, those criminal actions arising from acts of domestic violence.

20A.04.100 Tribal Court Records on Domestic Violence – Confidentiality.

The Nooksack Tribal Court shall take whatever steps are necessary to ensure that a victim's address or location is kept confidential, and to prevent release of such information, except at the victim's request, or with his or her consent.

**CHAPTER 20A.05
SPECIAL RULES OF COURT AND LAW APPLICABLE
IN DOMESTIC VIOLENCE.**

20A.05.010 Expedited Service of Process in Cases Involving Domestic Violence.

In any case where a perpetrator of alleged domestic violence or crime involving domestic violence cannot personally be served any type of motion required by this Code, and service of process must be made by mail or publication, service shall be complete:

- A. upon delivery of the mail, any form of mail requiring a return receipt signed by the addressee, unless returned by postal authorities because of the addressee's refusal to accept, in which case service is complete fourteen (14) days after mailing notice to the same address by first class mail; or
- B. fourteen (14) days from the date of the first publication in newspaper, newsletter, or Nooksack Tribal Court approved bulletin board, so long as the notice is published at least once a week for three (3) consecutive weeks in a newspaper of general circulation in the vicinity of the Nooksack Tribal Community.

20A.05.020 Mediation in Cases Involving Domestic Violence.

- A. In any proceeding concerning the custody of, or visitation with a child, the Nooksack Tribal Court shall not order mediation or refer either party to mediation if an order of protection is in effect.
- B. In any proceeding concerning the custody of, or visitation with a child, if there is an allegation of domestic violence, and an order of protection is not in effect, the Nooksack Tribal Court may offer mediation only if:
 - 1. mediation is requested by the victim of the alleged domestic violence;
 - 2. mediation is provided by a certified mediator, who is trained in domestic violence in a specialized manner intended to protect the safety of the victims; or
 - 3. the victim is permitted to have a supporting person of his or her choice, including but not limited to an attorney or victim advocate, in attendance at the meditation.

20A.05.030 Spousal Privileges not Applicable in Criminal Proceedings Involving Domestic Violence.

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

- A. privilege of confidential communication between spouses; and
- B. the privilege to not testify against a spouse.

20A.05.040 Advocate – Victim Privilege Application in Cases Involving Domestic Violence – Circumstances where Privilege not Available.

- A. An evidentiary privilege extends to all oral and written communications between the victim advocate and the victim; all communications made in the course of the advocacy relationship, including those made to or in the presence of third parties also participating in the advocacy or other victim services; and written records and reports maintained by the advocate concerning the victim when:
 - 1. the victim claims the advocate-victim privilege; or
 - 2. the person who was the advocate at the time of the confidential communication claims the advocate-victim privilege.

The privilege extends to all oral and written communications between and by either the advocate or the victim, and encompasses all communication made in the course of the advocacy relationship, including those made in the presence of third parties also participating in the advocacy or other victim services.

- B. An advocate may not claim the privilege if the victim has waived the privilege or if the victim is deceased.
- C. The advocate-victim privilege does not relieve a person from any mandatory duty to report child or elder abuse imposed by federal or tribal law. A person may not claim the privilege when providing evidence in proceedings concerning child abuse.

20A.05.050 Child Custody and Visitation Proceedings – Presumptions.

- A. In every proceeding where custody or visitation of a child is in dispute, a determination by the Nooksack Tribal Court that domestic violence has occurred raises a rebuttable presumption that it is detrimental 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.

- B. In every proceeding where custody or visitation of a child is in dispute, a determination by the Nooksack Tribal 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.

20A.05.060 Child Custody and Visitation Proceedings – Factors in Determining Custody and Visitation.

- A. In addition to other factors that the Nooksack Tribal Court must consider in a proceeding where custody or visitation of a child is in dispute, and the Court has made a finding of domestic violence, the Court shall also consider:
 - 1. that the safety and well-being of the child and of the parent who is the victim of domestic violence is the primary concern; and
 - 2. the perpetrator's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury or assault to any other person.
- B. If a parent is absent or relocates because of an act of domestic violence by the other parent, the absence or relocation shall not be a factor that weighs against the parent in determining custody or visitation.

20A.05.070 Conditions of Visitation in Cases Involving Domestic Violence.

- A. The Nooksack Tribal Court may award visitation by a parent who committed domestic violence only if the Nooksack Tribal 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, adequate provision for the safety of the child and the parent who is a victim of domestic violence may include but is not limited to an order that:
 - 1. provides that exchange of a child is to occur in a protected setting;
 - 2. provides that visitation is to be supervised by another person or agency;
 - 3. provides that the perpetrator of domestic violence is to attend and complete, to the satisfaction of the Court, and as a condition of the

visitation, a program of counseling for perpetrators of domestic violence, or some other designated counseling;

4. provides that the perpetrator of domestic violence is to abstain from possession or consumption of alcohol or controlled substances during the visitation and for twenty-four (24) hours preceding the visitation;
 5. provides that the perpetrator of domestic violence is to pay a fee to defray the costs of supervised visitation;
 6. prohibits overnight visitation;
 7. provides that the perpetrator of domestic violence is to post a bond for the return and safety of the child; and
 8. provides that the perpetrator of domestic violence is to comply with any other condition that is deemed necessary to provide for the safety of the child, the victim of domestic violence, or any other family or household member.
- C. Whether or not visitation is allowed, the Nooksack Tribal Court may order the address of the child and the victim be kept confidential.
- D. The Nooksack Tribal Court may refer, but shall not order, an adult who is a victim of domestic violence to attend counseling related to the victim's status or behavior as a victim, either individually or with the perpetrator of domestic violence as a condition of receiving custody of a child, or as a condition of visitation.
- E. If the Nooksack Tribal Court allows a family or household member to supervise visitation, the court shall furnish clear guidelines to those persons related to their responsibility and authority during supervision, so they are better able to protect the child should the perpetrator engage in violent or intimidating conduct toward the child or adult victim in the course of visitation.

**CHAPTER 20A.06
HEALTH, SOCIAL AND ADVOCATE SERVICES
RESPONSE AND DUTIES**

**20A.06.010 Notice of Rights of Victims and Remedies and Services Available
Required Information to be Provided by Nooksack Tribal Health Center.**

- A. The Nooksack Tribal Health Center shall make available to its staff, and to all its patients, a written notice of the rights of victims and of the remedies and services available to victims of domestic violence, as they are set forth in Section 20A.02.010(B) of this Code.
- B. Any health care practitioner who becomes aware that a patient is a victim of domestic violence shall provide the patient with the notice in Section 20A.02.010(B) of this Code.
- C. Written notice provided by the Nooksack Tribal Health Center, its staff or any health care practitioner, for general distribution to the public shall not include the addresses of shelters unless the location is public knowledge.

**20A.06.020 Nooksack Tribal Health Center Required to Provide Certain Information
to Parents.**

- A. The purpose of this Section, as a first step in the process of providing essential safeguards and services for families, is to avert the trauma of domestic violence and child abuse in families, by informing parents, particularly of new or young families, about domestic violence, and the community and health care systems which are available for support and assistance.
- B. The Nooksack Tribal Health Center shall provide information concerning domestic violence to parents of both newborn infants and hospitalized minors. The information must include, but is not limited to, the effect of domestic violence on children, and available services for the prevention and treatment of domestic violence.

20A.06.030 Child Abuse Investigatory Services – Responses and Duties.

- A. Any person or entity performing child abuse investigatory services within the Nooksack Tribe shall follow written procedures for screening each referral for abuse or neglect of a child to assess whether abuse or neglect of another family or household member is also occurring. The assessment shall include but is not limited to:
 - 1. inquiry concerning incidents of violence in the criminal record of the parents, and the alleged abusive or neglectful person, and the alleged

perpetrator of domestic violence, if such person is not a parent of the child; and

2. inquiry concerning the existence of orders for protection issued to either parent.

B. If it is determined in an investigation of abuse or neglect of a child that:

1. the child or another family or household member has been or is a victim of domestic violence, or is threatened by acts of domestic violence, and it reasonably appears to the person conducting the investigation 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 the child, the responsible person or entity shall seek the removal of the alleged perpetrator; or
2. 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.

20A.06.040 Liability of Health, Social and Advocate Services Staff.

Health, Social and Advocate Services staff shall not be held liable in any civil action for any action or omission in good faith under this Code arising from alleged domestic violence or a crime involving domestic violence brought by any party.

**CHAPTER 20A.07
ENFORCEMENT OF FOREIGN ORDERS**

20A.07.010 Purpose.

The purpose of this Chapter is to ensure compliance with the Full Faith and Credit provision of the Violence Against Women Act of 1994 (V.A.W.A.) as set forth in 18 U.S.C. Section 2265, as now or hereafter amended, and to ensure the safety of victims of domestic violence and crimes involving domestic violence, who are located within the jurisdiction of the Nooksack Tribe, and to ensure that victims of domestic violence are able to move across state and tribal boundaries without losing ability to enforce protection orders they have previously obtained to increase their safety, by giving effect to orders of protection which fall within the scope of that Act.

20A.07.020 Full Faith and Credit for Foreign Orders of Protection – Review by Tribal Court – Exceptions.

- A. For purposes of this Chapter, an “order of protection” means any injunctions or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders), however obtained, so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection.
- B. Any order of protection, except as noted in Section (C) below, issued by a court of any Indian Tribe or State of the United States, the District of Columbia, a commonwealth, territory or possession of the United States, shall be accorded full faith and credit by the Nooksack Tribal Court, and shall be enforced as if it were an order of the Nooksack Tribal Court, if:
 - 1. the issuing court had jurisdiction over the parties and the matter at the time the order was issued; and
 - 2. the issuing court gave reasonable notice and opportunity to be heard to the person the order is issued against, sufficient to protect that person’s right to due process; and, in the case of ex parte orders, notice and opportunity to be heard were given within a reasonable time after the order was issued.
- C. A foreign order of protection entered against both a plaintiff and a respondent shall not be enforceable against the plaintiff unless:
 - 1. the defendant filed a cross or counter petition, complaint or other written pleading seeking such a protection order; and

2. the issuing court made specific findings of domestic violence or a crime involving domestic violence against both the plaintiff and defendant and determined that each party was entitled to such an order.

20A.07.030 Filing Foreign Orders of Protection – Presumption of Validity – Procedures.

- A. A plaintiff who obtains a valid order of protection from another Indian Tribe or State of the United States, the District of Columbia, a commonwealth territory or possession of the United States may file that order by presenting a certified copy of the foreign order of protection to the clerk of the Nooksack Tribal Court. Any foreign court, department or agency responsible for maintaining protection order records, may by facsimile or electronic transmission send a reproduction of the foreign protection order directly to the Clerk of the Court, which will be accepted in lieu of an original certified copy as long as it contains a facsimile or digital signature by any person authorized to make such transmission.
- B. There shall be a presumption in favor of validity where a foreign order of protection appears authentic on its face.
- C. Filing of a foreign order of protection shall be without fee or cost.
- D. Upon receipt of a foreign order of protection, the Nooksack Tribal Court Clerk shall:
 1. forward a copy of the foreign order of protection to an officer of the Nooksack Tribal Police Department, on the day of receipt or by the next business day;
 2. provide the plaintiff with a document bearing proof of filing with the Nooksack Tribal Court;
 3. inform the plaintiff of the process for the Nooksack Tribal Court review of a foreign order of protection, and take steps to expedite review when the plaintiff perceives risk of further harm; and
 4. provide the person entitled to protection with a copy bearing proof of filing with the Nooksack Tribal Court.

20A.07.040 Violation of Foreign Orders of Protection.

- A. Whenever a foreign order of protection is granted and the person under restraint has notice of the foreign order of protection, each violation shall

constitute a crime the same as if the person under restraint violated an order of protection originally issued by the Nooksack Tribal Court.

- B. A police officer having probable cause shall arrest and take into custody without a warrant the person under restraint when the person under restraint had notice of the foreign order of protection and violates the foreign order of protection.

20A.07.050 Tribal Court May Recognize Additional Foreign Orders.

Nothing in this Chapter shall prevent the Nooksack Tribal Court from entering into agreements, or establishing procedures by which orders of protection from jurisdictions not referred to in this Chapter may be filed with the Nooksack Tribal Court and be entitled to full faith and credit.

**CHAPTER 20A.08
ANTI-HARASSMENT AND OTHER PROTECTION ORDERS**

20A.08.010 Non-Domestic Violence Remedies.

The Tribe recognizes that violence occurs outside of the family and household relationships that are included in this Code. Nothing in this Code precludes a person from seeking relief in the Court under other civil remedies including an anti-harassment, injunctive, or protective order against another person, when such relief is warranted by that person's conduct.

20A.08.020 Purpose.

The Tribe finds that the prevention of unlawful harassment is important to the health, safety and general welfare of the Tribal community. This chapter is intended to provide victims with a speedy and inexpensive method of obtaining civil anti-harassment protection orders preventing all further unwanted contact between the victim and the perpetrator for a specified period of time.

20A.08.030 Definitions.

(1) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. "Course of conduct" includes, in addition to any other form of communication, contact or conduct, the sending of an electronic communication; it does not include constitutionally protected free speech. Constitutionally protected activity is not included within the meaning of "course of conduct."

(2) "Unlawful harassment" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses or is detrimental to such person, and which serves no legitimate or lawful purpose. The course of conduct shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner, or, when the course of conduct would cause a reasonable parent or guardian to fear for the well-being of their child.

20A.08.040 Anti-Harassment protection order.

For the purpose of this section, "anti-harassment protection order" means a Court order restricting a person from harassing, threatening, contacting, or approaching another specified person for a period of time.

20A.08.050 Temporary anti-harassment protection order.

For the purpose of this section, "temporary anti-harassment protection order" means a Court order restricting a person from harassing, threatening, contacting, or approaching another specified person for a period no longer than 15 days.

20A.08.060 Petition for an anti-harassment protection order.

There shall exist an action known as petition for anti-harassment protection order for cases of harassment. The requirements for obtaining such an order are as follows:

(1) A petition to obtain an anti-harassment protection order under this section may be filed by any person claiming to be the victim of harassment, made by a parent or guardian of a minor, or the Nooksack ICW Department if the child is a ward of the Court.

(a) A petition for relief may be made regardless of whether or not there is a pending lawsuit, criminal complaint, petition or other action between the parties, with the exception that a parent may not petition for an anti-harassment protection order on behalf of his or her child against the child's other parent. Petitioner and Respondent shall disclose the existence of any other litigation or of any other restraining, protection, or no contact orders between the parties.

20A.08.070 Contents of a petition for anti-harassment protection order.

(1) A petition for relief shall allege the existence of unlawful harassment and shall be accompanied by a statement made under penalty of perjury stating the specific facts and circumstances from which relief is sought.

(2) The Court shall make simplified petition forms available. Any information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(3) Civil filing fees shall apply for filing of a petition under this section, unless the Court makes a finding upon due inquiry that the petitioner lacks the financial resources to pay filing fees.

(4) No bond is required to obtain relief in any proceeding under this section.

(5) The parent, guardian of a child under age 18, or the ICW Department if the child is a ward of the Court, may petition for an harassment protection order to restrain a person age 18 years or over from contact with that child upon a showing that contact with the person to be restrained is detrimental to the welfare of the child.

20A.08.080 Anti-harassment protection order ex parte.

(1) Upon filing a petition for an anti-harassment protection order under this section, the petitioner may obtain an ex parte temporary anti-harassment protection order with or without serving notice upon the respondent. The petitioner must file a statement made under penalty of perjury which, to the satisfaction of the Court, shows evidence of harassment of the Petitioner by the Respondent, and that continued harassment may result if the temporary anti-harassment protection order is not granted.

(2) An ex parte temporary harassment protection order shall be effective for a fixed period not to exceed 15 days. A full hearing, as provided in this chapter, shall be set for not later than 15 days from the issuance of the temporary order. The respondent shall be personally served with a copy of the ex parte temporary anti-harassment protection order along with a copy of the petition and notice of the date set for the hearing. If personal service is not possible, the Court may authorize service according to the procedures set out in Title 20A § 20A.03.060 (B) through (D). **Anti-harassment orders issued under this Title must contain the following statement: “WILLFUL VIOLATION OF ANY PROVISION OF THE PROTECTION ORDER IS A CRIMINAL OFFENSE AND PUNISHABLE BY IMPRISONMENT OR A FINE OR BOTH and subject to the penalties listed in § 20A.08.110-140.”**

20A.08.090 Permanent anti-harassment protection order.

(1) At the hearing within 15 calendar days after the granting of the ex parte anti-harassment protection order, a permanent order shall be issued prohibiting such harassment if the Court finds by a preponderance of the evidence that harassment exists or has occurred. Otherwise, the temporary anti-harassment protection order shall expire on its own terms. If the respondent does not appear, the petitioner must demonstrate that he or she effected proper service, and a default judgment will be entered. **Anti-harassment orders issued under this Title must contain the following statement:**

“WILLFUL VIOLATION OF ANY PROVISION OF THE PROTECTION ORDER IS A CRIMINAL OFFENSE AND PUNISHABLE BY IMPRISONMENT OR A FINE OR BOTH.

(2) An order issued under this section shall be effective for not more than one year unless the Court finds that any future contact with petitioner would result in the harm from which the petitioner originally sought protection. If the Court so finds, the Court may enter an order to a fixed time exceeding one year up to and including entering a permanent anti-harassment protection order.

(3) In the event that a respondent fails to appear for a hearing and the petitioner cannot demonstrate service upon him or her, the Court may grant a second ex parte temporary anti-harassment protection order to the petitioner, enjoining the same respondent and order substitute service according to the procedures for service set out in Title 20A § 20A.03.060(B) through (D). If an officer investigates an alleged violation of an order issued pursuant to this chapter and service has not been effected prior to contact, the officer shall provide service as described herein and file proof of service with the Court before the end of the next court day.

(4) At any time within three months prior to the expiration of the order, the petitioner may apply for a renewal of the order by filing a motion for renewal with the Court. The motion for renewal shall state the reasons why he or she seeks to renew the order. Upon receipt of the motion for renewal, the Court shall order a hearing which shall be held within 15 days from the date of motion. The Court shall grant the motion for renewal if the Petitioner shows

by a preponderance of the evidence that the Respondent will resume the unlawful harassment when the order expires. The Court may renew the anti-harassment protection order for another fixed period or may enter a permanent order.

(5) The Court, in granting an anti-harassment protection order, shall have broad discretion to grant such relief as the Court deems proper including but not limited to:

(a) Restraining the respondent from making attempts to contact the petitioner and all persons listed in the petition.

(b) Restraining the respondent from making any attempts to monitor the petitioner by actual or electronic surveillance.

(c) Requiring the respondent to stay a specified minimum distance from the petitioner's residence, workplace, and/or school.

20A.08.100 Notice to local law enforcement agencies – Enforceability.

(1) A copy of an anti-harassment protection order granted under this chapter shall be forwarded by the Clerk of the Court on or before the next judicial day, and to the Nooksack Tribal Police Department or appropriate law enforcement agency.

(2) If an officer investigates an alleged violation of an order issued pursuant to this chapter and service has not been effected prior to contact, the officer shall provide service as described herein and within the next day file proof of service with the Court.

20A.08.110 Violation of anti-harassment protection order – Penalties.

Knowing and willful violation of any anti-harassment protection order subjects the respondent to criminal or civil penalties under this chapter.

(1) Willful violation of an anti-harassment protection order is a Class B offense, punishable by 6 months incarceration and/or a \$2,500 fine and/or community service

(2) The third or subsequent violation of an anti-harassment protection order is a Class A offense, punishable by 6 months incarceration and/or a \$5,000 fine and/or community service.

(3) Any respondent who is found guilty of violating the terms of the anti-harassment protection order may also, subject to the Court's discretion, be held in civil contempt of court, and the Court may impose such sanctions as it deems appropriate.

**CHAPTER 20A.09
IMMUNITY, SEVERABILITY, REMEDIES AND PENALTIES**

20A.09.010 Immunity from Liability.

The following persons have immunity from liability in a civil action brought by a party for any action or omission in good faith under this Code arising from alleged domestic violence or a crime involving domestic violence:

- A. law enforcement officers;
- B. prosecutors;
- C. victim advocates;
- D. health, child protection, or social services staff; and
- E. persons who are members of a team established by the Nooksack Indian Tribe for the purpose of protecting persons from domestic violence, abuse, or neglect, including the child protection team and the elder protection team

20A.09.020 Severability.

If any provision of this Code or its application to any person or circumstance is held invalid, the remainder of this Code, or the application of the provision to other persons or circumstances is not affected, and to this end the provisions of this Code are declared to be severable.

20A.09.030 Sovereign Immunity.

Nothing in this Code shall be deemed or construed to be a waiver of the sovereign immunity of the Nooksack Indian Tribe, its officials, its entities, or employees acting within their official or individual capacities.

20A.09.040 Remedies Outside of the Domestic Violence Code.

The Nooksack Indian Tribe recognizes that violence occurs outside of the family and household relationships that are included in this Code. Nothing in this Code precludes a person from seeking relief in the Nooksack Tribal Court under other civil remedies, including an injunction or protective order against another person, when such relief is warranted by that person's conduct.

20A.09.050 Crime of Disclosure of Domestic Violence Shelter.

Any person who knowingly publishes, disseminates, or otherwise discloses the location of any domestic violence shelter, without authorization, is guilty of a crime, and, upon conviction, shall be sentenced to imprisonment for not more than one hundred eighty (180) days; and a fine not to exceed Twenty-Five Hundred dollars, U.S. (\$2,500.00).

20A.09.060 Violation of an Order of Protection - Criminal Sanctions.

- A. Whenever any order has been granted under this Code, or when there is a valid foreign order of protection as defined in this Code, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order shall be a Class B offense:
1. the restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact, harassing, annoying, telephoning or otherwise communicating with the protected party either directly or indirectly;
 2. a provision excluding the person from a residence, workplace, school, or day care, or any other specific place petitioner or another family or household member frequently go;
 3. a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;
 4. a provision prohibiting interfering with the protected party's efforts to obtain custody of a minor child residing with either the petitioner or the respondent;
 5. a provision prohibiting the possession, or use of any firearm or other weapons; or
 6. a provision of a foreign protection order specifically indicating that a violation will be a crime.
- B. Violation of a protection order, or of a valid foreign protection order as defined in this Code, shall also constitute contempt of court, and is subject to the penalties prescribed by law.
- C. Any assault that is a violation of an order issued under this Code, or of a valid foreign protection order as defined in this Code, is a Class A offense.

- D. A violation of a court order issued under this Code, or of a valid foreign protection order as defined in this Code, is a Class A offense if the offender has at least two (2) previous convictions for violating the provisions of an order issued under this Code, or a valid foreign protection order as defined in this Code. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.
- E. Upon the filing of an affidavit by the petitioner or any police officer alleging that the respondent has violated an order granted under this Code, or a valid foreign protection order as defined in this Code, the Nooksack Tribal Court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen (14) days why the respondent should not be found in contempt of court.

20A.09.070 Amendments.

The Nooksack Tribal Council may amend this Code by a majority vote of a quorum at duly called meeting, provided that any amendments may not be made at any time during an election in progress.

20A.09.080 Effective Date.

This Code, as herein revised, shall become effective immediately upon approval by the Nooksack Indian Tribal Council.