

### How do I file?

*You may find the form for an Order for Protection with the HCN Trial Court by going to our website at:*

[www.ho-chunknation.com/?PageId=28](http://www.ho-chunknation.com/?PageId=28).

### How do I modify?

*There are three (3) things that need to be filed or done to effectuate a modification of an order for protection in the Trial Court.*

1. *Motion* (letter requesting the Court to do something),
2. Send Copies to All Parties, and,
3. File a *Certificate of Service* w/ Court.



### Where can I find the Domestic Abuse Act?

*The HCN Laws, including the Domestic Abuse Act, are available on the Legislature's website at:*

[www.ho-chunknation.com/?PageId=168](http://www.ho-chunknation.com/?PageId=168).



## HCN TRIAL COURT

*Answering Your  
Questions About*

***Seeking  
Protection from  
Domestic Abuse  
in the  
Ho-Chunk Nation  
Trial Court***

*Hąke Hinųk Hojinine*

### HCN TRIAL COURT

P.O. Box 70  
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<http://www.ho-chunknation.com/?PageId=28>

In 2000, the Ho-Chunk Nation Legislature adopted the *Domestic Abuse Act*, declaring domestic abuse “a serious crime against the victim, family, and the Nation.” 4 HCC § 5.2b.

### **What is Domestic Abuse?**

- 1) attempting to cause or causing physical harm to a family or household member;
- 2) placing a family or household member in fear of physical harm; or
- 3) causing a family or household member to engage in involuntary sexual activity. 4 HCC § 5.5h.

### **Who is a Family or Household Member?**

- 1) current or former spouse, cohabitant, boyfriend or girlfriend, or sexual partner;
- 2) persons related by blood, adoption, or marriage; and
- 3) minor children of the above individuals. 4 HCC § 5.5i.

### **Who may file a Petition for Order for Protection?**

- 1) the victim of domestic abuse; or
- 2) the parent or guardian of a minor victim of domestic abuse, provided that:
  - a) the perpetrator or victim resides on tribal trust or fee land, *e.g.*, Brockway Apartments. 4 HCC § 5.6-7.

### **Can someone help the Petitioner fill out the Petition?**

Either the Clerk of Court or Staff Attorney may provide “clerical assistance.” Otherwise, the petitioner may

contact the Domestic Abuse Advocate within the Department of Health & Social Services at 715.284.2622 or 888.343.8190. 4 HCC § 5.8d(3).

### **Does the Petitioner need to include the Victim’s Address on the Petition?**

No. The *Petition* shall not ask for or disclose the petitioner’s address, telephone number or similar identifying information. 4 HCC § 5.8a(1). The petitioner shall provide their identifying information on a form kept strictly confidential by the Court. 4 HCC § 5.8a(1). This form shall be used only for determining jurisdiction and for mailing official communications from the Court.

### **How soon does the Petitioner need to file after the Alleged Abuse Occurs?**

A petitioner may file at any time after the occurrence of the alleged abuse, but the Court may consider an extended delay as a reason to deny an *ex parte* order. 4 HCC § 5.11a(1), 15.

### **What is an Ex Parte Order for Protection?**

An *ex parte* judgment is issued without affording the alleged perpetrator notice or a hearing, and only if the Court finds:

- a) reasonable grounds to believe that domestic abuse has occurred; and
- b) deems an emergency order necessary to protect the victim. 4 HCC § 5.5h, 11a(1).

### **How long does an Ex Parte Order for Protection last?**

Since granted without notice or a hearing, an *ex parte* judgment may only last for a temporary period of time. Otherwise, the perpetrator would be deprived of due process of the law. HCN CONST., art. X, § 1(a)(8). Consequently, an *Ex Parte Order for Protection* expires within thirty (30) days after its issuance. 4 HCC § 5.12a.

### **When is a Hearing required?**

The Court must hold a hearing in the following circumstances:

- a) the petitioner requests a hearing in the *Petition* for purposes of obtaining a *Final Order for Protection*;
- b) the petitioner requests an extension of the thirty (30) day *ex parte* judgment prior to its expiration;
- c) the *ex parte* judgment awards the victim temporary custody of a common child; or
- d) the *ex parte* judgment awards the victim temporary possession of a jointly owned or rented automobile or dwelling. 4 HCC § 5.12a-b.

In the latter two (2) instances, the hearing must occur within fifteen (15) days of issuance of the *ex parte* judgment.

### **Does the Victim need to appear at a Hearing with the Alleged Perpetrator?**

No. There is no requirement that the victim appear at any hearing with the Alleged Perpetrator. The Court will allow a petitioner to appear by telephone upon request. Additionally, the Court will advise victims of this option to appear by telephone, upon filing a *Petition*.

### **How long does a Final Order for Protection last?**

A final restraining order may extend for a period of one (1), two (2) or five (5) years, or the Court may enter a permanent restraining order depending on the circumstances. 4 HCC § 5.13b.