



**PUEBLO OF ZUNI
ZUNI TRIBAL COUNCIL
ZUNI, NEW MEXICO**

October 4, 2001

RESOLUTION NO. M70-2001-B040

WHEREAS, the Zuni Tribal Council consisting of the Governor, Lieutenant Governor, and six Tenientes is declared to be the legislative authority of the Pueblo of Zuni by Article V, Section 1 of the Constitution of the Zuni Tribe; and

WHEREAS, the Zuni Tribal Council as the legislative body of the Zuni Tribe is authorized to act on all matters that concern the maintenance of peace and order on the Zuni Reservation and the protection of individual rights of tribal members, in accordance with Article VI, Section (1)(k) of the Constitution; and

WHEREAS, domestic violence is damaging to Zuni Tribe members, their families and the community, and it cannot be tolerated or ignored; and

WHEREAS, the Zuni community, as a whole and through its various agencies and departments, has an obligation to assist and protect individuals and families affected by domestic violence; and

WHEREAS, the current Domestic Violence Code, Ordinance No. 52, was adopted in 1991 and it no longer provides sufficient protection for Zuni members and adequate guidance to the courts, the police and other agencies and departments who provide services to families affected by domestic violence; and

WHEREAS, the proposed Domestic Violence Code, attached hereto as Exhibit A, was drafted with the assistance of the courts, the police department, tribal prosecutors, tribal council members, Community and Indian Legal Services, the United States Department of Justice, and members of several other agencies and departments, and was presented to the people of Zuni at a public hearing on August 15, 2001, at which time comments were received and considered; and

WHEREAS, the Zuni Tribal Council believes the Domestic Violence Code, attached as Exhibit A, will provide strong protection for victims of domestic violence and clear guidance for the courts, law enforcement and other agencies charged with providing services to victims of domestic violence and their families; and

NOW THEREFORE BE IT RESOLVED, that the Zuni Tribal Council hereby adopts the new Zuni Domestic Violence Code, attached hereto as Exhibit A, as Title XI, Part 2 of the Zuni Tribal Code; and

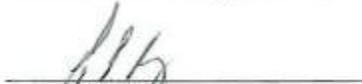
BE IT FURTHER RESOLVED, that the existing Domestic Violence Code, Ordinance No. 52, is hereby repealed; and

BE IT FURTHER RESOLVED that the Pueblo of Zuni shall develop a Domestic Violence Protocol for use by the Courts, the Police, the Prosecutor's Office and other service providers to assist them in implementing this Code in a vigorous and evenhanded manner.

ZUNI TRIBAL COUNCIL:

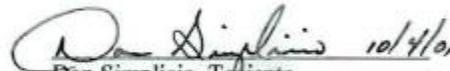

Malcolm B. Bowekaty, Governor

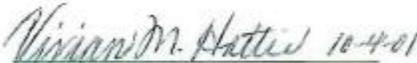

Barton Martza, Lieutenant Governor

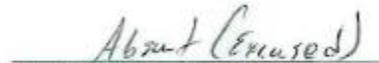

Eldred P. Bowekaty, Head Teniente

 10/4/01
David W. Wyaco, Sr., Teniente


Arden Kucate, Teniente

 10/4/01
Dan Simplicio, Teniente

 10-4-01
Vivian M. Hattie, Teniente


Charlotte T. Bradley, Teniente

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Zuni Tribal Council at a duly called meeting at Zuni, New Mexico at which a quorum was present and that the same was approved by a vote of 6 in favor and 0 opposed on October 4, 2001


Eldred P. Bowekaty, Tribal Council Secretary
Pueblo of Zuni

APPROVED/DISAPPROVED

 10-4-01
Malcolm B. Bowekaty, Governor Date
Pueblo of Zuni

**DOMESTIC VIOLENCE CODE
FOR
PUEBLO OF ZUNI**

Title XI, Part 2

Effective date: April 1, 2002

CHAPTER 1: GENERAL PROVISIONS

§11.2-1-1. Purpose.

By virtue of its inherent authority as a sovereign nation and possessing powers of local self-government pursuant to Article VI of the Zuni Constitution, The Pueblo of Zuni hereby establishes the laws of the Pueblo concerning violence against family or household members, current or former intimate partners and other persons protected under this Code and sets forth the jurisdictional powers, duties and authority of those persons and agencies entrusted with the responsibility for its enforcement.

§11.2-1-2. Policy.

It is hereby declared as a matter of tribal policy that the Pueblo of Zuni's response to domestic violence will be that such violent and damaging behavior will not be tolerated or ignored. The establishment of this Code recognizes the obligation of the Zuni community, as a whole and through its various agencies and departments, to assist and protect individuals and families affected by domestic violence. To this end, the Domestic Violence Code seeks to guarantee to victims of domestic violence the maximum protection from abuse that the law can provide.

§ 11.2-1-3. Definitions.

These definitions shall be liberally construed so as to protect persons from violence by family or household members, current or former intimate partners or other persons specified in this Section. As used in this Code the following terms shall have the meanings indicated below:

A. *Abuser* means a person who has committed an act of domestic violence.

B. *Domestic violence* means any incident by an individual against any family or household member or other person protected under this Code resulting in:

- (1) physical harm - pain, injury, or an impairment of a physical condition;
- (2) a threat to cause physical harm - any act, including utterance of verbal threats, which is intended to cause another person reasonable fear of serious physical harm;
- (3) severe emotional abuse - using threats, intimidation, or extreme ridicule to inflict humiliation and emotional suffering upon another;
- (4) sexual assault - any physical contact or attempted physical contact of a sexual nature, with a person, made without that person's lawful consent;
- (5) harassment - repeated actions or communications, by phone or by any other means, intended to intimidate, humiliate, degrade or cause fear in another person;
- 6) coercion - using force, intimidation, or threatening words or actions to force a person to:
 - (i) engage in conduct, which the person has a right to abstain from; or
 - (ii) abstain from conduct, which the person has a right to engage in;

(7) damage to property - disturbing, injuring, burning, or destroying the property of another;

(8) stalking - following a person or placing a person under surveillance by remaining present outside that person's school, residence, workplace or vehicle or any other place frequented by the person or repeatedly making unwanted contacts to that person by telephone, fax, e-mail or other similar means with the intent to kill, injure, harass or intimidate;

(9) kidnapping or false imprisonment - unlawfully taking, transporting or confining a person;

(10) larceny or burglary - taking property of a person without their permission or entering a person's property with intent to commit a felony; or

(11) trespass - entering or remaining on a person's property without permission of the person in control of the property.

C. "*Family or household members*" or "*persons protected under this Code*" includes:

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

(2) adults or minors who live together or who have lived together;

(3) adults or minors who are dating or who have dated;

(4) adults or minors who are engaged in or who have engaged in a sexual relationship;

(5) adults or minors who are related by blood or adoption (including ancestors or descendants, sisters, brothers, aunts, uncles, nieces, nephews or cousins of the first degree;

(6) adults or minors who are related or formerly related by marriage;

(7) adults or minors who have a child in common; and

(8) minor children of a person in a relationship described in Paragraphs (1) through (7).

The list of persons protected under this Code shall be liberally construed to protect and include the intimate partnerships defined herein, and is not limited to "male-female partner" relationships.

D. *Knowingly* means, with respect to an element of an offense, that if the element involves the nature of his conduct or the attendant circumstances, the abuser is aware that his conduct is of that nature or that such circumstances exist; or, if the element involves a result of his conduct, he is aware that it is practically certain that his conduct will cause such a result. *See* Zuni Criminal Code.

E. *Mandatory arrest* means that the victim does not need to sign a complaint for an arrest to occur. A police officer shall arrest if there is probable cause to believe the person to be arrested has committed an offense as defined by this Code even though the arrest may be against the expressed wishes of the victim. *See* §II.2-2-3 of this Code.

F. *Order of protection* means a tribal court order issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to, another person.

G. *Probable cause for arrest* - means that the police officer, acting as a person of reasonable caution, has reasonable grounds to believe that the person to be arrested has committed domestic violence as defined by this Code, based on all the facts known to the officer, including the

officer's personal observations, statements made by the parties involved in the incident, statements made by witnesses, if any, and other reliable information.

H. *Police officer* - means any commissioned employee of the Zuni Police Department or any other law enforcement agency that is currently certified by a law enforcement academy and is responsible for the prevention and detection of crime within the jurisdiction of the Pueblo of Zuni. The term specifically includes criminal investigators, Tribal Rangers and Bureau of Indian Affairs officers, and specifically excludes village officers and members of any neighborhood watch program or citizen police group.

I. *Resident* - means a member of the Pueblo of Zuni or any person living on the Zuni Reservation regardless of whether they are a tribal member, a non-tribal member Indian, or a non-Indian.

§11.2-1-4. Written Policies and Procedures.

A. The Pueblo of Zuni Domestic Violence Code and other applicable provisions of the Zuni Criminal Code shall be used to advance effective prosecution of the crime of domestic violence and to maximize the protection and safety of the victims of domestic violence and their children.

B. In cases involving domestic violence, the agencies shall follow the reporting procedures and case management procedures set forth in the Pueblo of Zuni Domestic Violence Protocol Manual.

CHAPTER 2: CRIMINAL PROCEDURES AND PENALTIES

§11.2-2-1. Crime of Domestic Violence.

Any person who knowingly commits an act of domestic violence as defined in 11.2-1-3.B of this Code shall be deemed guilty of the offense of domestic violence.

§11.2-2-2. Duties of Police Officer to Victim of Domestic Violence; Required Notice to Victim.

A. A police officer that responds to an allegation of domestic violence shall use all reasonable means to protect the victim and prevent further violence, including but not limited to:

(1) taking the action necessary to provide for the safety of the victim and any family or household member;

(2) confiscating any weapon involved or threatened to be involved in the alleged domestic violence and any weapon that is in the plain view of the officer or was discovered pursuant to a consensual or other lawful search;

(3) transporting or obtaining transportation for the victim and any child to a shelter;

(4) assisting the victim in removing essential personal effects;

(5) assisting the victim and any child in obtaining medical treatment, including obtaining transportation to a medical facility; and

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

B. As part of the notice required by the foregoing, the law enforcement officer shall give a written notice to the adult victim substantially as follows:

"If you are the victim of domestic violence and you believe that law enforcement protection is needed for your physical safety, you have the right to request that the officer assist in providing for your safety, including asking for an emergency order for protection. You may also request that the officer assist you in obtaining your essential personal effects and locating and taking you to a safe place, including but not limited to a designated meeting place for a shelter, a family member's or a friend's residence, or a similar place of safety. If you are in need of medical treatment, you have the right to request that the officer assist you in obtaining medical treatment. You may request a copy of the report at no cost from the Zuni Police Department. You may ask the Zuni Police Department to file a criminal complaint. You also have the right to file a petition in the Zuni Tribal Court requesting an order for protection from domestic and family violence that could include any of the following orders:

- (1) an order enjoining your abuser from threatening to commit or committing further acts of domestic violence;
- (2) an order prohibiting your abuser from harassing, annoying, telephoning, contacting or otherwise communicating with you, directly or indirectly;
- (3) an order removing your abuser from your residence;
- (4) an order directing your abuser to stay away from your residence, school, place of employment, or any other specified place frequented by you and another family or household member;
- (5) an order prohibiting your abuser from using or possessing any firearm or other weapon specified by the court;
- (6) an order granting you possession and use of the automobile and other essential personal effects;
- (7) an order granting you custody of your child or children.
- (8) an order denying your abuser visitation;
- (9) an order specifying arrangements for visitation, including requiring supervised visitation; and
- (10) an order requiring your abuser to pay certain costs and fees, such as rent or mortgage payments, child support payments, medical expenses, expenses for shelter, court costs, and attorney's fees.

The forms you need to obtain an order for protection are available from the Clerk of the Zuni Tribal Court. The resources available in this community for information relating to domestic violence, treatment of injuries, and places of safety and shelters are:

- (1) New Beginnings: 782-4600
- (2) Victims of Crime Advocates (VOCA): 782-4919
- (3) Zuni Social Services: 782-7166
- (4) Police/Social Services Dispatch: 782-4493,4494
- (5) Indian Health Service: 782-4431
- (6) Community and Indian Legal Services: 1-800-867-3452 or 1-800-524-4417

You also have the right to seek reimbursement for losses suffered as a result of the abuse, including medical and counseling expenses, moving expenses, loss of earnings or support, and

other expenses for injuries sustained and damage to your property. This can be done without an attorney in Zuni Tribal Court.

C. The written notice required by Subsection B shall not include the addresses of the shelters.

D. The officer providing the written notice shall inform the victim that the officer or another member of the Zuni Police Department will read the notice aloud or explain the notice in Zuni, if the victim so requests.

§11.2-2-3. Mandatory Arrest.

Without a warrant, a police officer shall arrest an alleged abuser if the officer has probable cause to believe that the person has committed domestic violence, whether that crime was committed in or outside the presence of the officer.

§11.2-2-4. Primary Aggressor; Dual Arrest.

A. If a police officer receives cross complaints of domestic violence from two or more opposing persons, the officer shall arrest the primary aggressor. In determining whether a person was the primary aggressor the officer shall consider one or more of the following:

- (1) The Pueblo of Zuni's intent to protect victims of domestic violence.
- (2) the history of domestic violence between the persons involved;
- (3) the relative severity of the injuries inflicted or threats creating fear of bodily injury;
- (4) the likelihood of future injuries to each person; and
- (5) whether one of the persons acted in self-defense.

B. If the officer determines that one person was the primary aggressor, the officer is not required to arrest the other person believed to have caused physical harm or bodily injury. However, if it appears that two or more parties were aggressors, the officer shall arrest both or all parties.

§11.2-2-5. Mandatory Investigative Report.

A. Whenever a police officer investigates an allegation of domestic violence, whether or not an arrest is made, and the officer shall make a written investigative report of the alleged abuse and submit that report to the Tribal Domestic Violence Prosecutor, the Director of New Beginnings, and the Director of Social Services, within 72 hours.

B. This mandatory investigative report must contain at a minimum the following information:

- (1) a description of the circumstances of the persons and their surrounding environment when the officer responded to the call;
- (2) a description, and photographs, if any, of the injuries or harm inflicted upon either or both parties and whether they received medical treatment;
- (3) evidence of any property damage;
- (4) summaries of the comments from the persons describing the circumstances leading to the call for law enforcement; and

(5) if no parties, or more than one party, are arrested, the officer must set forth grounds for arresting no one or more than one party.

§11.2-2-6. Incident Report.

In the event that a victim of domestic violence seeks help from a social service provider or tribal agency referenced in the Zuni Protocol Manual, but does not report the incident to law enforcement, that social service provider or tribal agency may submit an incident report to the Zuni Police Department. If it chooses to submit a report, the provider or agency should do so within 72 hours. In determining whether or not to submit an incident report, the social service provider or tribal agency shall give due consideration to the wishes of the victim and to issues of confidentiality.

§11.2-2-7. Authority of Police Officers to Seize Weapons.

A. When there is an arrest for domestic violence, a police officer:

(1) shall seize all weapons allegedly involved or threatened to be used in the commission of the crime; and

(2) may seize a weapon that is in the plain view of the law enforcement officer or was discovered pursuant to a search conducted in accordance with the Zuni Rules of Criminal Procedure.

B. If an arrest for domestic violence leads to a conviction of the charge, the weapon seized shall not be returned. If there is no conviction, the weapon will be returned by law enforcement after notice from the Tribal Court of the disposition of the matter.

C. If there is a conviction of the charge of domestic violence, the Zuni Police Department shall charge a fee for the storage of the seized weapons.

D. All provisions of this Section apply equally to police officers charged with the crime of domestic violence.

§11.2-2-8. Filing a Criminal Complaint for Domestic Violence.

A. A criminal complaint charging the crime of domestic violence shall be signed by the police officer making the arrest for domestic violence or by the Zuni Prosecutor. If the alleged abuser is not in custody at the time the complaint is charged, the police officer or Prosecutor shall seek a warrant of arrest.

B. An individual may file a criminal complaint and sworn affidavit in the Zuni Tribal Court charging the crime of domestic violence. Upon receipt and review of the criminal complaint and affidavit, the Judge shall, if probable cause exists, issue a warrant to arrest the individual so charged.

§11.2-2-9. Twenty-Four Hour Hold Following Arrest.

Following an arrest for an offense pursuant to this Code, the alleged abuser may be held for a period of twenty-four hours following his or her arrest. The alleged abuser shall be arraigned and advised regarding bail in accordance with Zuni Rules of Criminal Procedure, and shall be eligible for bail following the twenty-four hour hold period.

§11.2-2-10. Conditions of Release.

A. In making a decision as to the release of a person arrested for and/or charged with domestic violence, the Court shall review the facts of the arrest and determine whether the alleged abuser is a threat to the victim, to family members, to a witness or to public safety, and is reasonably likely to appear in Court as ordered by the Court.

B. Before releasing a person charged with domestic violence, the Court shall impose conditions ensure the safety of the victim and family and to ensure the alleged abuser's appearance at subsequent court proceedings, including anyone or more of the following:

- (1) an order directing the alleged abuser to vacate or stay away from the home of the victim and to stay away from any other location where the victim is likely to be;
- (2) an order enjoining the alleged abuser from threatening to commit or committing acts of domestic violence against the victim or other person protected under this Code;
- (3) an order prohibiting the alleged abuser from harassing, stalking, telephoning, contacting, or otherwise confronting the victim, either directly or indirectly;
- (4) an order prohibiting the alleged abuser from using or possessing a firearm or other weapon specified by the Court;
- (6) an order prohibiting the alleged abuser from possessing or consuming alcohol or controlled substances;
- (7) any other order required to protect the safety of the victim and to ensure the appearance of the alleged abuser in Court.

C. The Court shall issue a written order for condition of release and immediately distribute copies to the alleged abuser, the victim, law enforcement, the Domestic Violence Prosecutor, the Director of Social Services, and the Director of New Beginnings. Failure to provide the alleged abuser with a copy of the conditions of release does not invalidate the conditions if the person has notice through oral order or other means.

§11.2-2-11. Required Records.

A. Records Required in Court File: When a court dismisses criminal charges or a prosecutor moves to dismiss charges against a person accused of a crime involving domestic or family violence, the specific reasons for the dismissal must be recorded in the court file. The prosecutor shall indicate the specific reason why the witness is unavailable and the reasons the case cannot be prosecuted.

B. Police Department Records: The Zuni Police Department shall keep and update a listing of protection orders and conditional release orders issued pursuant to this Code indicating effective dates for the orders and restrictions. The list shall be readily accessible to officers.

§11.2-2-12. Criminal Case Shall Not be Dismissed Because Civil Compromise is Reached.

A court shall not dismiss a criminal complaint charging domestic violence for the sole reason that a civil compromise or settlement, including but not limited to a tort settlement, custody agreement or issuance of a protection order, is reached, or that children are involved in the case.

§11.2-2-13. Penalties for Crime of Domestic Violence.

A. Domestic violence is a Class A offense, subject to the maximum imprisonment and/or fine allowable under the Constitution of the Pueblo of Zuni. If the abuser is incarcerated, the Court may order the abuser to reimburse the Zuni Tribe for the cost of his or her incarceration.

B. The Court shall order any person found guilty or pleading guilty to a charge of domestic violence to make appropriate reimbursement to the victim for expenses associated with domestic violence, including but not limited to medical expenses, counseling fees and the repair or replacement of damaged property.

§11.2-2-14. Probation.

A. In the discretion of the Court, any penalty ordered by the Court pursuant to Section 11.2-2-13.A may be suspended pending the completion of a recommended term of probation.

B. In lieu of the imposition of such confinement and/or fine as authorized under 11.2-2-13.A and 13 .B, the Court may order a person convicted of the offense of domestic violence to complete a term of probation and to comply with the conditions of that probation, including directing the abuser to undergo a psychological evaluation, including an alcohol/chemical dependency test, and to comply with any resulting recommendation for counseling.

C. If the abuser fails to comply with the terms of probation, the Court shall order execution of any suspended sentence.

§11.2-2-15. Spousal Privileges Inapplicable.

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

A. The privilege of confidential communication between spouses.

B. The testimonial privilege of spouses.

CHAPTER 3: CIVIL ORDERS OF PROTECTION

§11.2-3-1. Eligible Petitioners.

Any victim of domestic violence may file a petition for an order of protection if either the petitioner or respondent, or both, are enrolled members of the Pueblo of Zuni or non-members who are residents of the Pueblo of Zuni.

§11.2-3-2. Standard Forms; Clerical Assistance; Fee Waivers.

A. The Clerk of the Tribal Court shall provide to a person requesting an order of protection a standard form for petitions for orders of protection.

B. The Clerk of the Tribal Court and/or domestic violence caseworker shall provide clerical assistance in filling out the forms and filing the petition.

C. Any fee required by the Zuni Tribal Court for filing civil petitions is hereby waived due to the special need for this relief.

§11.2-3-3. Ex Parte Emergency Orders of Protection; Available Relief; Availability of Judge; Expiration of Order.

A. The Tribal Court may issue a written or oral protection order ex parte when a law enforcement officer states to the Court in person, by telephone, or via facsimile, and the Court finds reasonable grounds to believe, that the petitioner or the petitioner's child is in immediate danger of domestic violence based on an allegation of a recent incident of domestic violence.

B. A law enforcement officer who receives an emergency oral order for protection from a court shall:

- (1) write and sign the order on an approved form;
- (2) if possible, immediately serve a copy on the respondent and complete the appropriate affidavit of service;
- (3) immediately provide the petitioner with a copy of the order; and
- (4) provide the original order to the Court by the close of business on the next judicial day.

C. The Court may grant the following relief without notice and hearing in an order of protection issued ex parte:

- (1) prohibit the respondent from threatening to commit or committing acts of domestic violence against the petitioner or any designated family or household member;
- (2) prohibit the respondent from harassing, intimidating or stalking the alleged victim, either directly or indirectly;
- (3) remove and exclude the respondent from the residence of the petitioner, regardless of ownership of the residence;
- (4) prohibit the respondent from writing to, talking to, visiting or contacting the petitioner in any way except through the petitioner's domestic violence caseworker or attorney;

(5) order the respondent to stay away from the petitioner and/or petitioner's residence, school, place of employment, or any specified place frequented by the petitioner and any designated family or household member;

(6) prohibit the respondent from using or possessing a firearm or other weapon;

(7) prohibit the respondent from possessing or consuming alcohol or controlled substances;

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

(9) determine the temporary custody of any minor children;

(10) order such other relief as the court deems necessary to provide for the safety of the petitioner and any designated family or household member.

E. A judge must be available 24 hours a day to hear petitions for emergency orders of protection.

§11.2-3-4. Temporary Order of Protection; Hearing.

A. Upon the filing of a petition for order of protection, the Court shall:

(1) immediately grant an ex parte temporary order of protection without bond, if there is probable cause from the specific facts shown by the affidavit or by the petition to give the judge reason to believe that an act of domestic violence has occurred;

(2) cause the temporary order of protection together with notice of hearing to be served immediately on the alleged abuser; and

(3) within ten days after the granting of the temporary order of protection, hold a hearing on the question of continuing the order.

B. If an ex parte order is not granted, the Court shall immediately serve notice to appear upon the parties and hold a hearing on the petition for order of protection within seventy-two hours after the filing of the petition; provided that, if notice of hearing cannot be served within seventy-two hours, a temporary order of protection shall be issued and remain in effect until such time as a hearing can be held.

§11.2-3-5. Final Orders of Protection.

A. The Court may grant the following relief in an order of protection after notice and hearing, whether or not the respondent appears

(1) grant the relief available in accordance with Section 11.2-3-3.C, above;

(2) make findings and impose restrictions sufficient to invoke protections afforded by federal laws;

(3) award temporary custody of any minor children where appropriate;

(4) specify arrangements for respondent's visitation of any minor children and, if necessary to protect the petitioner and the children, require supervised visitation or deny visitations;

(5) order the respondent to do any of the following that may apply:

- a. pay rent or make payment on the mortgage on the petitioner's residence and pay for the support of the petitioner and minor child if the respondent is found to have a duty to support the petitioner or the minor child;
- b. reimburse the petitioner or other person for expenses associated with domestic violence, including but not limited to medical expenses, lost earnings and/or support, counseling, the repair or replacement of damaged property; and the expense of any temporary housing.
- c. pay the costs incurred in bringing the action.

(6) order the petitioner to attend appropriate domestic violence counseling, if necessary;

(7) restrain the parties from transferring or concealing property except in the usual course of business.

B. The Court shall:

(1) cause the order to be delivered to the Zuni Police Department for service on the respondent;

(2) make reasonable efforts to ensure that the petitioner and respondent, if present understand the order of protection;

(3) transmit, by the end of the next business day after the order is issued, a copy of the order of protection to the proper law enforcement agency.

C. The tribal law enforcement agency shall provide for expedited service of orders of protection.

D. If the order supersedes any prior court order concerning domestic arrangements, it shall so state on its face.

E. No order issued shall affect title to property.

F. Final orders of protection shall be effective for a minimum time period of three months but the Court may, in its discretion, impose a longer time period of effectiveness.

§11.2-3-6. Modification of Orders of Protection.

An existing ex-parte order of protection or an existing final order of protection may be modified upon motion to the Court.

§ 11.2-3- 7. Extension of Final Order of Protection.

A. Prior to the expiration of a final order of protection, the petitioner may apply for a modification to extend the time period for which the order of protection is effective.

B. The Court may, in its discretion, issue an order of protection of permanent duration, particularly if the victim has been subjected to domestic violence that required hospitalization or resulted in life threatening injuries, significant disfigurement, impairment, or disability.

C. If there has been no violation of the existing order prior to the application for extension, the Court shall take this as an indication that the order of protection is effective in assuring the safety of the victim. The Court may not use the fact that there has been no violation of the order of protection to determine that there is no further need for the order of protection.

§11.2-3-8. Effect of Action by Petitioner or Respondent on Order.

A. If an order of protection requires a respondent to stay away from the residence of a petitioner or to stay away from the petitioner, an invitation by the petitioner does not invalidate the order of protection.

B. An order of protection can only be dismissed by the Tribal Court.

C. To request that an order of protection be dismissed, a petitioner must file a motion to dismiss an order of protection with the Tribal Court. After a hearing, the Court will decide whether or not to dismiss the order.

§11.2-3-9. Violation of an Order of Protection.

A. Violation of an order of protection issued pursuant to the Domestic Violence Code shall constitute contempt of court.

B. A law enforcement officer shall arrest without a warrant and take into custody any person who the officer has probable cause to believe has willfully violated an order issued pursuant to this Domestic Violence Code. The arrested person immediately shall be served notice

C. A person convicted of violating an order of protection granted by this Court under the Domestic Violence Code shall be sentenced in accordance with Title I, Chapter 4, Section 4-1-4, Zuni Tribal Law and Order Code. Violation of an order of protection is a Class A offense.

D. In addition to any other punishment provided in the Domestic Violence Code, the Court shall order a person to make appropriate restitution to the party injured by the violation of an order of protection and order the person convicted to participate in and complete a program of professional counseling, at his or her own expense.

§11.2-3-10. Time for Filing.

In determining whether to grant an order of protection, the Court shall consider whether the petitioner's fear is reasonable and imminent regardless of the lapse of time between the act of domestic violence and the filing of the petition.

§11.2-3-11. Mutual Orders of Protection.

A court shall not issue an order for protection that is a mutual order against both parties.

§11.2-3-12. Continuing Duty to Inform Court; Other Proceedings; Omission of Petitioner's Address.

A. At any hearing in a proceeding to obtain or amend an order of protection each party has a continuing duty to inform the court of any other civil proceedings whether in civil, family, or juvenile court, and each criminal case involving either of the parties.

B. An order of protection is in addition to other available civil or criminal proceedings. A petitioner is not barred from applying for an order of protection because of other court proceedings. The Court shall not delay granting relief because of a pending action between the parties. The Court shall not refuse to grant or dismiss an order of protection because of the possibility, pendency, or existence of other court proceedings.

C. Petitioners may omit their home address from all court papers, but the Court shall maintain the address under sealed record, not to be accessible without petitioner's consent.

§11.2-3-13. Full Faith and Credit.

A. Any order of protection issued pursuant to due process of law by a court of any other jurisdiction, state or tribal, shall be accorded full faith and credit by this court and enforced as if it were an order of this court.

B. A law enforcement officer may rely upon a copy of any foreign protection order that has been provided to the officer by any source and may also rely upon the statement of any person protected by a foreign order that the order remains in effect. A law enforcement officer acting in good faith shall be immune from civil and criminal liability in any action arising in connection with a court's finding that the foreign was not enforceable.

CHAPTER 4: VIOLENCE AGAINST DOMESTIC VIOLENCE ADVOCATES AND VOLUNTEERS.

§11.2-4-1. Purpose.

A. The Pueblo of Zuni recognizes that abusers and/or their families may target tribal and domestic violence advocates, as well as others who assist victims of domestic violence, for retaliatory violence, intimidation, harassment, and other unlawful acts. Such acts often are committed or attempted as a result of advocacy activities and assistance rendered during the course of advocacy duties or efforts.

B. For the purpose of this Chapter:

(1) "unlawful acts" means any violation of a protection order, issued against an abuser, that enjoins the abuser and/or his family from committing assault, battery, harassment, intimidation, stalking, malicious mischief, destruction of property, terroristic threats, or any other unlawful act of force or violence, as set forth under the Zuni Tribal Code, against any domestic violence victim advocate.

(2) the abuser's "family" includes parents, grandparents, children, siblings, uncles, aunts, cousins of the first degree, current or former spouses and their parents, grandparents, children, siblings, uncles, aunts, or cousins of the first degree.

(3) "advocate" is construed to include Tribal employees, volunteers, and employees of private, non-profit agencies, employees and volunteers of any domestic violence shelter or program, or any other person who, in the course of their regular duties, provides services or assistance to victims of domestic violence.

C. This Chapter makes any such retaliation or intimidation actionable as a matter of Civil Contempt and any findings of liability by the Zuni Tribal Court will subject the respondent to the sanctions expressed in this Chapter, as well as any other applicable fines, remedies, or restrictions available under Title I, Chapter 4 (Contempt's), and Title II (Rules of Civil Procedure) of the Zuni Tribal Code.

§11.2-4-2. Implied Consent.

A. Any person who is not a member of the Zuni Tribe shall be deemed as having consented to the jurisdiction of the Tribe by doing personally, through an employee, through an agent, or through a subsidiary, any of the following acts within the exterior boundaries of the Zuni Indian Reservation:

- (1) transacting any business;
- (2) committing or omitting any act which results in a valid tort action;
- (3) owning, using or possessing any property situated within the exterior boundaries of the Zuni Indian Reservation;
- (4) engaging in any employer-employee relationship;
- (5) leasing or permitting of any land or property;
- (6) residing within the exterior boundaries of the Zuni Indian Reservation;
- (7) committing any act giving rise to claims for spousal support, separate maintenance, child support, child custody, divorce, or modification of any decree of divorce or separate maintenance proceedings;
- (8) entering any contractual agreement within the exterior boundaries of the Zuni Indian reservation.

B. The Pueblo of Zuni has chosen, through this Section, to exercise its civil authority to provide civil sanctions against those persons, whether members, non-members, or non-Indians, who live within the exterior boundaries of the Zuni Indian Reservation, or who otherwise come under the Tribe's authority through implied consent, and who use unlawful force or violence in violation of this Chapter.

§ 11.2-4-3. Penalties.

Any person found liable, or against whom a default judgment has been entered, in any cause of action brought as a result of retaliation or intimidation against any person identified in Section 401, Paragraph A, herein, shall be subject to a minimum of \$1,000.00 punitive damages, plus such costs, medical fees, compensatory damages, and/or any further relief which the Court might deem just and proper.

§11.2-4-4. Criminal Law Applicability; Referral for Criminal Action; Duty of Civil Court Clerk.

A. Any case bought, litigated, or settled as a result of a cause of action under this Section will not preclude referral for possible criminal prosecution under the Zuni Tribal Code and/or Federal Law.

B. The Zuni Tribal Civil Court Clerk shall, immediately upon receipt of a qualifying petition under this Chapter, forward a copy of the case information to the Tribal Prosecutor for review, follow-up investigation, and consideration for possible criminal prosecution under the appropriate Section(s) of the Zuni Tribal Code and/or referral for possible Federal Prosecution.